PE 14 FID

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Photo Template #2




USMC 242386

Photo Template #3
WWW.MARINES.COM
FACEBOOK.COM/MARINECORPS
@USMARINECORPS

PE 14

Photo Templates #4 & 5

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Photo Template #7

Photo Template #8

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Austin completed his first of four 24 in 24 events. Helping to raise over $2.6 million for kids battling life threatening illnesses.

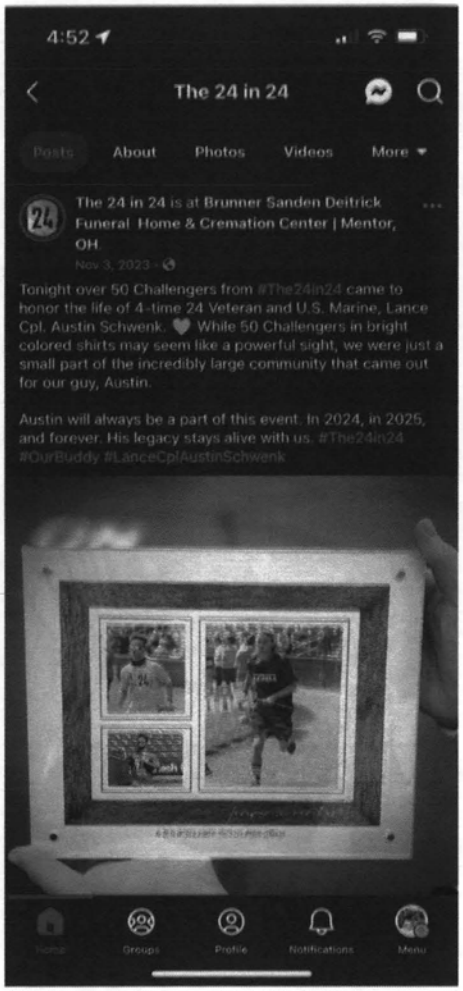


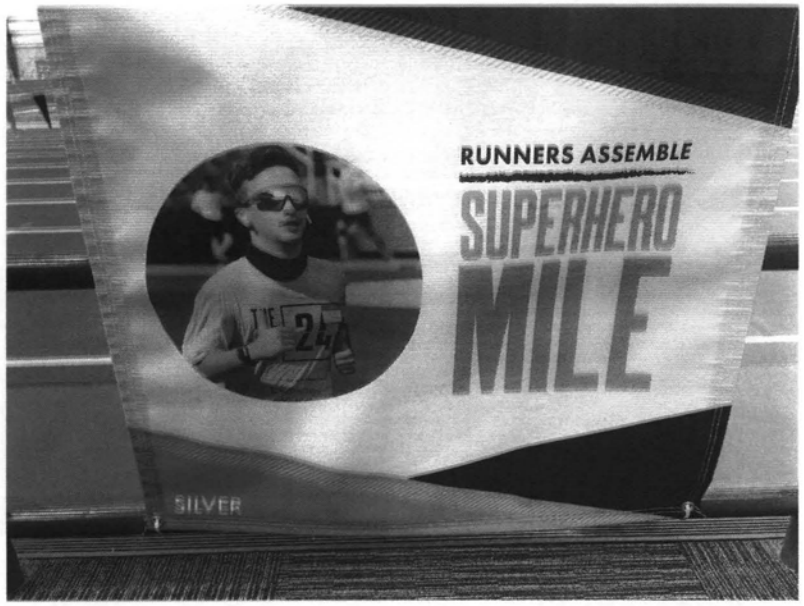


All he wanted to do was see the whole world. As much as he could.

Getting to see how he just lit up seeing the world and experiencing new places was the highlight of my wedding.







He was a huge part of the 24… the words in these posts speak volumes





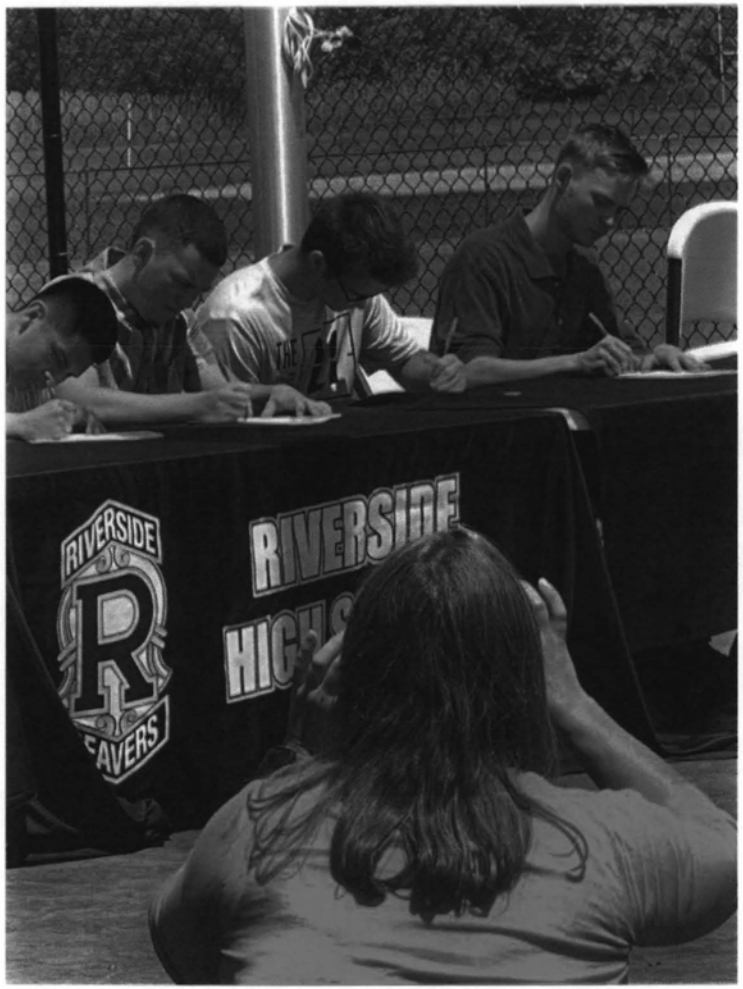
NDIANS













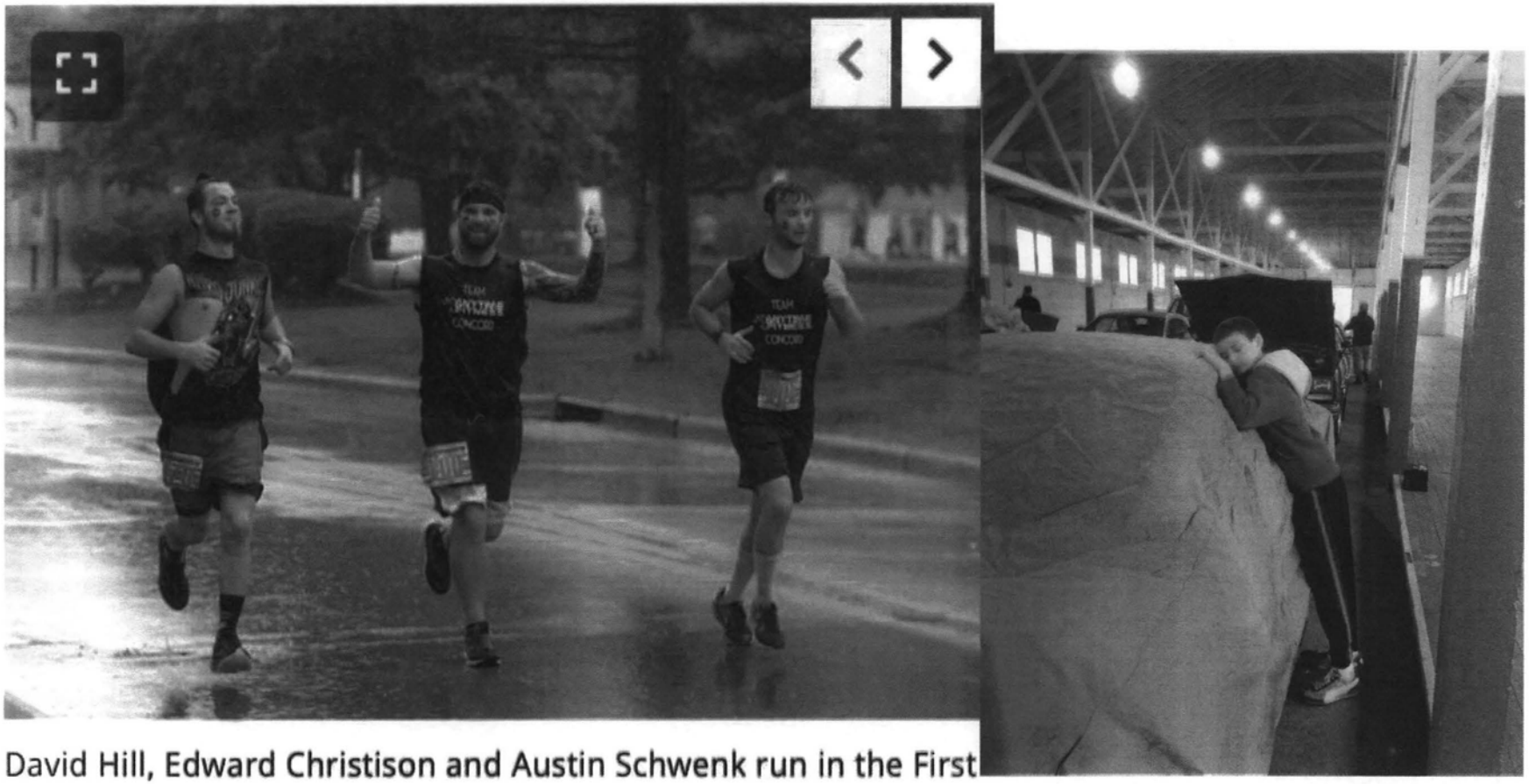
His military signing ceremony senior year








THANK YOU



David Hill, Edward Christison and Austin Schwenk run in the First Responders 5K on Sept. 13 in Mentor.

MILE 3
IN MEMORY OF LANCE CPL. AUSTIN SCHWENK
MEMORIAL MILE
21 IN 21 VETERAN CHALLENGER



Prosecution Exhibit 16 FID

PE 17 FIB

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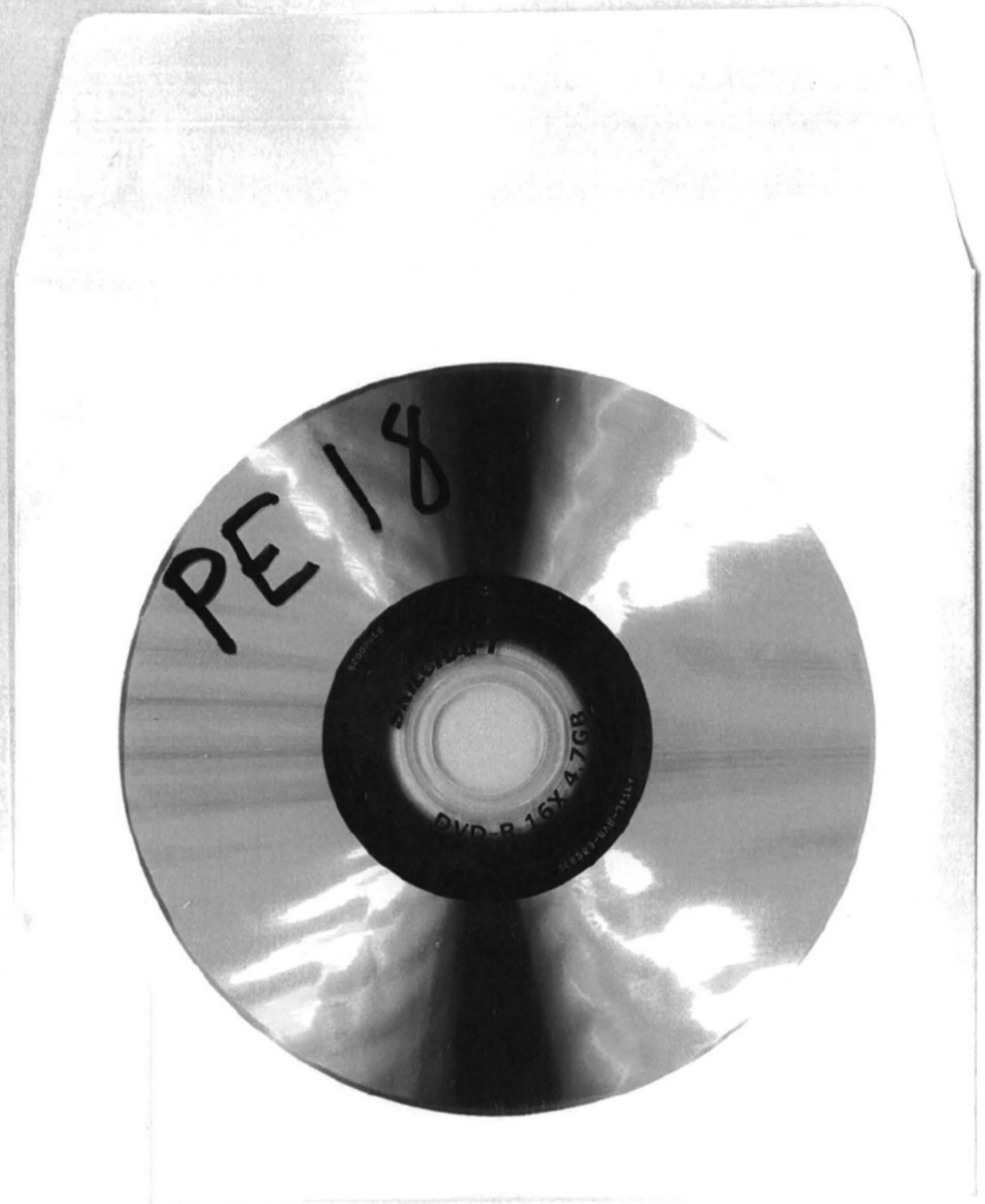
PE 17

Pg 2 of 2



Prosecution Exhibit 18 FID
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Members of the court,

My name is Angelique Thomson, and I am the mother of 3 young men who carry a love for life, adventure, and dreams just as Austin Schwenk did. I met Austin in 2016 when I became close friends with his mother, Kaci Christison. At the time, I only knew we shared a love for jeeps and off-roading, but as we grew closer, I learned that we also had a deeper connection through our experiences and shared interests in military life.

Over the last 8 years, as Kaci and I became best friends, I had the privilege of watching Austin grow from an energetic boy into a passionate and determined young man. Austin was full of life. He loved working on cars, training at the gym, spending time with our off-roading family, helping out his family and friends, and most of all, he loved his mom, Kaci.

Austin was driven by a dream to become a United States Marine. He couldn't wait to step into that role, to serve his country, and to live a life full of purpose and pride. It is an absolute tragedy that he did not get nearly enough time to live out that dream.

The pain of this loss is beyond words. Kaci, Austin's mom, will never get to hold her son again, never get to hear his voice or see him become the man he was meant to be. The defendant's choices have taken away more than just a life—they have taken away a future, a dream, and a bond that can never be replaced.

Kaci's grief is unimaginable. The loss of a child is a wound that will never heal. What has been taken from her, from our family, is something that cannot be undone. The pain she will carry is lifelong, and it is something none of us can ever truly understand unless we have walked in her shoes.

Austin's life was just beginning. His potential was limitless, and his future was bright. But now, all that is left is a memory of a young man who deserved so much more. This is a loss that will never fade, and it is something that will remain with us forever.

The defendant's actions have left an indelible mark on our lives, and the consequences will reverberate through our hearts for as long as we live. We will never get Austin back, and that is a grief that no amount of time or words can ever erase.

Thank you for listening.
Angelique Thomson
Close family friend

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Your Honor,

My name is Mark Thomson, and I am writing about the incredible loss of Austin Schwenk, a young man I was privileged to know for 12+ years. At a very young age Austin knew he wanted to be a Marine to follow his father Robert's footsteps. As a Marine myself, Austin would grill me with questions about the Marine Corps every time I saw him and I encouraged him to follow his dreams toward earning the title.

Austin was just 19 years old when his life was taken from us. He was truly a U.S. Marine exemplifying honor, courage, and commitment. He was deeply proud of his service and passionate about the Marine Corps. It was clear to anyone who knew him that being a Marine wasn't just a job to Austin—it was a calling. He carried that honor and discipline in everything he did, and he spoke often about how much it meant to him to serve his country.

Outside of his service, Austin was full of life. He loved Jeeps and fast cars, and his excitement for them was contagious. He could light up a room just by talking about his dream projects or the next big event he was looking forward to.There was so much more to Austin than his hobbies and interests—he was exceedingly kind and charitable. He participated in many charity events, with one of his favorites being the 24 in 24 event. Austin believed in giving back, and he put his whole heart into helping others, showing the same dedication and generosity in his community as he did in his service.

Losing Austin has left a void that can never be filled. His family and friends have endured unimaginable pain, losing a son, brother, grandson, and friend, and we all now carry the weight of that grief every day. Those of us who knew and loved Austin will profoundly feel his absence, and the world is a lesser place without his kindness, energy, and spirit.

Your Honor, Austin was a young man with so much ahead of him—a promising future, endless dreams, and a heart full of love for his family, friends, and country. His life was stolen from him and from all of us who cherished him. No words or actions can truly bring justice to this loss, but I ask this court to consider the gravity of what has been taken from us.

Austin deserved to live a full, vibrant life. We honor his memory by seeking accountability and ensuring that the weight of his loss is fully recognized. Thank you for allowing me to speak today and share just a small piece of who Austin was and the impact his loss has had on us all.

Semper Fidelis,
Mark Thomson
CPL, USMC 1993-1997
Close family friend

Victim impact statement of Patricia Schwenk

I First met Austin when he was 12 years old, a fairly shy and awkward pre teen, but with an apparent maturity that was way beyond his years.

He was the first to fully accept me into the family after his grandpa, eventually referring to me as his B.G.M., or British Grandma. as I got to know him better, I was in awe of the special young man that he was.

He was always interested in the world around him, both people and situations, and we had many conversations about life events where I was constantly astounded by his maturity and apparent depth of knowledge. If he hadn't been sitting in front of me, in the body of a child, you would think that I was talking to a scholar or a philosopher. He had a way of looking at the world that showed a maturity that many adults don't have.

Austin was a peacemaker, always keen to see the positives in people, even when they didn't deserve it, with the ability to diffuse a difficult situation, just by being Austin. He brought people together, he valued people and their individuality. He respected his elders and genuinely recognized and appreciated their life experience and what that experience brought to his own life. He particularly respected veterans, their service, and what their sacrifice had meant to his way of life. If we were all out together and we lost him (which we frequently did), just look for a veteran, and there he would be, deep in conversation. If we were out to dinner with a veteran for example, Austin would always insist they order first.

In addition to his aforementioned qualities, he also had an empathy and understanding of people and their lives, always managing to strike the right balance, bringing out the best in them, encouraging a special needs child, supporting his dad through his mental health battles, diffusing an argument (usually by playing the fool), but nevertheless, being in tune with their individual needs.

Austin loved his Grandpa, they had a special bond that could not be broken, and had no hesitation saying " love you Grandpa" , wherever they were, and meaning it wholeheartedly!!

Austin and I had a very good relationship. I'm not his grandmother by blood ties, but I am in my heart. He used to tease me mercilessly about how he perceived that USA was so much better than UK, and no matter what I threw at him, he always came back with a smart as answer, infuriatingly based in fact.

Needless to say, his untimely death was devastating for all who knew and loved him. I frequently find myself thinking about this amazing young man, and shed a tear for his loss. Even those who didn't know him, are affected by this loss, often reduced to tears by the re-telling of his tragic demise.
Part of his Grandpa died that day, and I lost a part of my husband that can never be recovered.

Patricia Dodds

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My name is Sandi Turick, and Austin Schwenk is my great nephew.

Austin had a very sensible and realistic approach to life, more so than many people do these days. The best way to describe Austin is that he was an old soul and displayed a depth of character that made me proud to call him family. Watching Austin grow from a happy child to a self-assured confident Marine is one of the best things in my life.

At 15, Austin spent some time with us while on a family vacation. During this time, he bonded with Champ, one of my horses. No prior experience with this horse, Austin jumped on him without a saddle or bridle, and chilled for a while. Mutual trust and respect is earned and takes time when dealing with horses, but the two of them had that instantly. Champ understood that he needed to be careful with Austin and he absolutely trusted him. He would never have let Austin climb aboard otherwise.

I was present at Austin's bootcamp graduation and seeing him achieve his dream spoke volumes of his dedication and desire to serve his country. He was gracious and respectful to people that stopped him to ask about his uniform while we were out to lunch and answered their questions simply and honestly without impatience.

Respectfully submitted

Sandi Turick

Your Honor,

My name is Edward Christison. I am the step father to Austin Schwenk. I have known Austin ever since he was a young child. I knew and was close friends with Kassandra, Austin, and his brother Bryce for 10 years before we became a family. It was an incredible experience for me to watch Austin grow from the energetic talkative little kid, to the remarkable honorable and still very talkative young man.

Austin had many interests and hobbies. He loved his video games, fast cars, old cars, his family, his friends, and he very much so loved and respected the military. No matter what the situation, where we were at, if he saw someone who appeared to be a veteran, he made it his goal to get to that person, and shake their hand and thank them for their service. It's sometimes difficult to find a young person who is motivated to work, motivated to help, and motivated to better themselves. Austin did all of those things. The day he was old enough to legally have a job, he did so. He worked as many hours as his place of employment would allow him while maintaining school work, and working out to prepare himself physically for the military training requirements. There truly is an unexplainable amount of great things that can be said about Austin. He was a joy to be around. To teach things to, and to learn things from him. Some of my proudest moments with him was running several years in a row a charity event where we run 24 miles, in 24 hours. We ran those miles side by side, and seeing him at such a young age finish so strong after such a tough event was inspirational.

The loss of Austin hurts me in so many terrible ways. I have lost a close friend, a hero, and my stepson. We will forever have an empty seat at holiday events. We will forever have a missing person on family vacations. We will never again be able to hear him laugh or tell a dumb joke. For the rest of my life I will see the pain in my wife's eyes. Every "happy" moment is now tainted by the realization that my stepson, my wife's baby was stolen away from her, and stolen away from his whole family. Knowing that my wife lost her baby, and I cannot do anything to change that for her is very hard to cope with.

Your Honor, Austin was truly an amazing person. In every way that a person can be. He would have gone far in the Marine Corps. He would have been a leader, and a hero to many who served with him. He would have started a family and he would have showed his family the world. He will live on forever in our memories, and our stories. I thank you for allowing me to share my thoughts and feelings regarding Austin.

Thank you hearing me.

Edward Christison

Stepfather

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I write this statement as a friend of the Schwenk and as a Marine, a Lady Leatherneck. Why is it so important that I speak of the impact the death of Austin Schwenk is because this is personal. Personal in that there is no longer 4th Recruit Traing Battalion Parris Island, there will never be another Oscar company graduate having walked the catwalk or slept in these squadbays. 4th Recruit Training Battalion is no more, it was deactivated June 15, 2023.

But Austin experienced something so few men had the opportunity to experience Austin was Oscar Company, the very same company as I, perhaps even slept in the same rack. Austin was the rarest of the fever the prouder, he was a

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4th Recruit Training Battalion, Oscar Company Graduate, I was one of the very first Oscar Company Marine in 1989 was when I signed my contract so I was at the beginning, Austin was at the end of a period of history in our Marine Corps, there will be no more.

Austin was more than another Marine, he was history walking. I can only imagine the great things he would have accomplished if he was still alive, what he would have contributed to the Marine Corps and what his legacy would have been, I speak of his possible Military accomplishments and the loss of an outstanding Marine L Cpl Schwenk because we will never know because the time to become what Austin aspired to be was stopped in its tracks by the loss of his life in such

3 of 14

a heinous way by one he thought was one who stood beside him, not one who chose to place a gun, either by accident or not with a round in the chamber against [redacted] Austin Schwenks head and pull the trigger.

Deese Bopp (I refuse to address him by rank) chose to drink excessively cans upon cans of 12% "Beat Box" alcholic de malt liquor drinks and who knows how many "Twiste Tea" drinks containg 5% by volume of alchol, whereas beer cantains 4% to. One single Beat Box is equilvant to 4 beers. So by chaice and obviously to get intoxicated quickly 4 Beat Box equals 16 BEERS! Twisted Tea is a malt beverage not a beer either, he wanted to be intoxicated very quickly and succeeded in doing so. A blood alcohol of .106 is definitely drunk.

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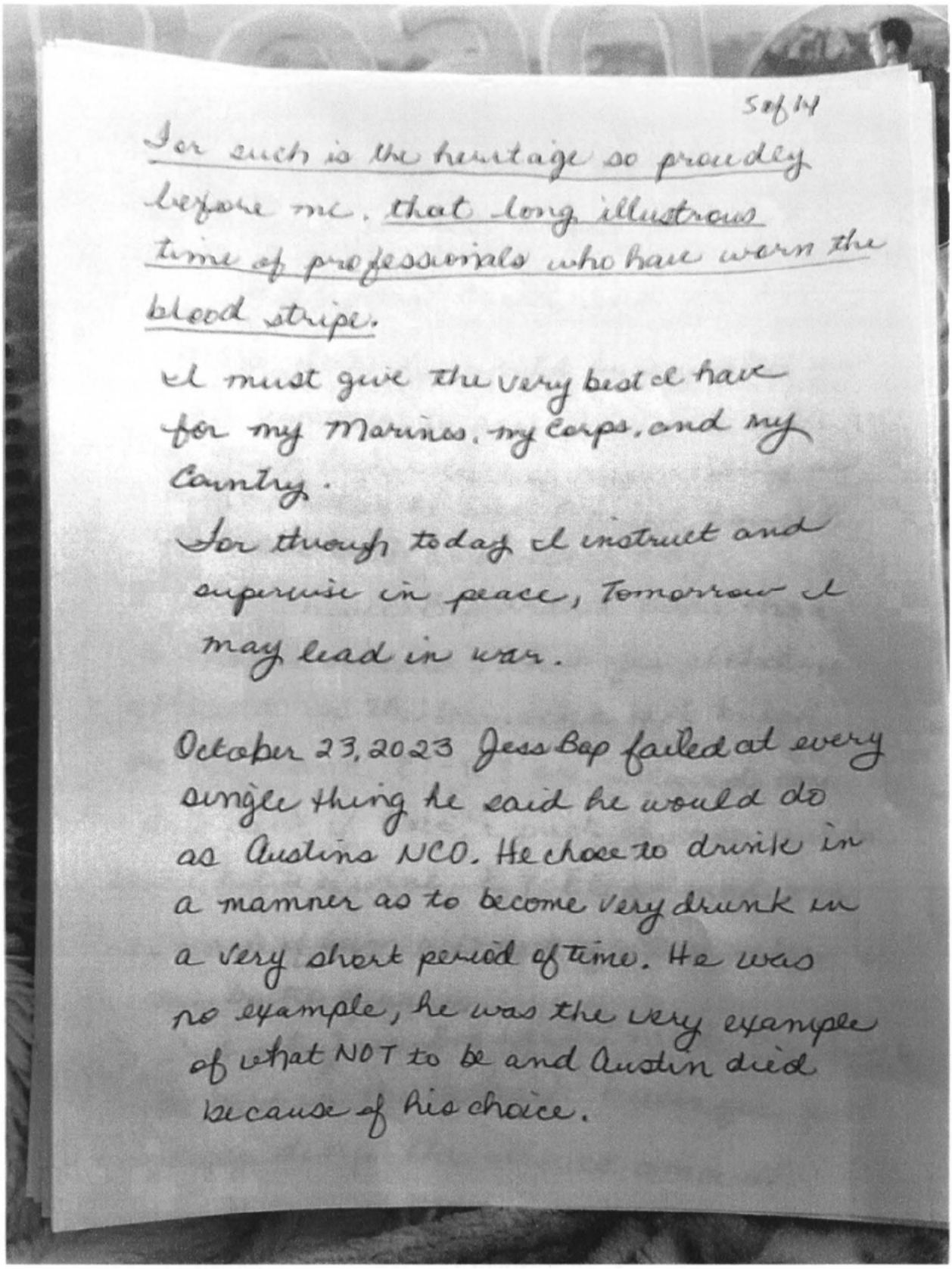
Jessa Bopp made Caporal an as such said the NCO's Creed

I am the backbone of the United States Marine Corps
I am a Non Commissioned officer
I serve as a vital link between my commander (and all officers) and enlisted Marines.
I will never forget who I am
I will challenge myself to the limit and be ever attentive to duty
I am now more than ever committed to excellence in all that I do.
My integrity shall be impecable as my appearance.
I will be honest with myself with those under my charge and with my superiors.
I pledge to do my best to incorporate all the leadership traits into my character.



5 of 14

For such is the heritage so proudly before me. that long illustrous time of professionals who have worn the blood stripe.

I must give the very best I have for my Marines, my Corps, and my Country.

For through today I instruct and supervise in peace, Tomorrow I may lead in war.

October 23, 2023 Jess Bap failed at every single thing he said he would do as Austins NCO. He chose to drink in a manner as to become very drunk in a very short period of time. He was no example, he was the very example of what NOT to be and Austin died because of his choice.

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There is another creed us Marines know and we all know it well.

Rifleman Creed and as his MOS 2171 he would be expected as an Armorer to respect any weapon on a much higher level of responsibily as it was what he was trained, taught, and did each and every day.

So by choice Bop drank more than a excessive amount, which yes alchol is allowed in the barracks but based on his rank E1-E3 are allowed one six pack of Beer, a pack of wine coolers, or one bottle of wine. E4-E5 allowed one 12 pack of beer, a 12 pack of wine coolers, or one bottle of wine.

But yet Jesse Bop again made the choice to have in the barrack beverages far exceeding the allowed amount.

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(3)

Rifleman Creed

(1) This is my rifle there are many like it but this one is mine

(2) My rifle is my best friend. It is my life. I must master it as I must master my life.

(3) My rifle without me is useless. Without my rifle I am useless I must shoot straighter than my enemy who is trying to kill me I must shoot him before he shoots me ... I will.

(4) My rifle and myself know what counts in this war is not the rounds we fire but the noise of our burst, nor the smoke we make We know that it is the Hits that count. We will Hit!

8 of 14

⑤ My rifle is human even as I, because it is my life. Thus I will learn it as my brother. I will learn its weaknesses, its strength, its parts, its accessories, its sights and its barrel. I will ever guard it against the ravages of weather and damage as I will ever guard my legs my legs, my arms, my eyes, and my heart against damage. I will keep my rifle clean and ready. We will become part of each other. We will ...

⑥ Before God, I swear this creed. My rifle and myself are defenders of my country. We are the masters of our enemy. We are the saviors of my life.

⑦ So be it, until Victory is America's and there is no enemy but peace!!

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Yet again a basic principal of knowledge
<u>Any</u> Marine knows well and yet again
a <u>choice</u> Jesse Bop <u>chose</u> to ignore.

Not only did he break his own words
he had stated in the basic creeds
of our Marine Corps. But he broke
an oath, an oath to defend our
country from enemies both foreign
and domestic. Austin Schwenk was
no enemy, if he was he would have
been the enemy to only one, the one
who ~~put~~ ended his life, we will
never know. But what we know
is that Austin should be alive.

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Bop's parents and sister write of how great a child Jesse was and his interests and life goals. But that is what they have to look forward to, years of life not years of just memories that have limited to just a measly 19 years because of his actions Jesse Bop took that away from the Schwenk family and all his friends. He has already had 447 more days, 2 birthday, 2 new years, and 2 christmases to spend visiting family friends, receiving gifts, having conversations than Austin was allowed and was taken from us. Austin has missed the birth of two new members of the family and all the holiday Jesse Bop has had the ability to celebrate whatever his current conditions are, he is still alive.

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Every year there are 12 major holidays plus Valentines Day, kids birthdays, anniversaries, and Marine Corps birthdays

So if Austin hadn't died and had all of these milestones to celebrate for example 50 years, how many days does Bop get than Austin Schwenk and why.

Why? Because Austin Schevenks life was ended October 23. 2023 by Jesse Bop.

When I heard of Austins death my stomach wrenched I wanted to scream, cry, yell, punch something but all I could do was hug his grandparents Robert and Patricia Schwenk. I can not speak to the deepest extent of the pain they have when they say Austin, or ~~hear~~ hear his name or story of him. I know the empty table where he sat is hard to look at.

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I have sat at the very same table and seen Robert cry and seen how his hands shake and how Patrica walks away trying to be strong. There are photos of Austin all through the house and a constant knowing of the spirit that is there, but only a spirit, not Austin.

I remember the day I saw how much Robert was excited to Hike the appalachian trail but was also sad as it was bittersweet, this time he would be without his grandson.

I spoke and saw how saddened everyone was ~~wh~~ when Robert and Patrica talk about having great-grandchildren was yet another loss for them. Each day is another thing done alone without their grandson, my Marine brother.

The loss of one Marine is too many the loss of a Marine at the hands of a

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Marine is unacaptable! Let the colors
of our uniform be a forever reminder
of the blood Jesse Bop spilled Be it
by accident or not as only he will
~~Be too~~ know the real truth. Him
and God know. If he truly wants
to deny that he was not at fault and
asks the court to be lenient he will
face God one day. The gates of heaven
are guarded by Marines.

But here on Earth judgement is passed
in a courtroom, but Austin Schwenk is
was an honorable Marine and deserves
to not be forgetten and I ask the
harshest punishment ask for in the
plea and give consideration to more
time and harsher punishment.

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Corporal Bop did hold a gun to [redacted] LCpl Austin Schwenks head and pulled the trigger, [redacted]. We broke every ~~oath~~ oath, creed, responsibility, sensability and lives. How do we know that what happened was truly accidental we shall never know, but I'm sure God does and so does Jessie Bop.

I respectfully ask that this statement which is the near tip, minscule amount of suffering this person has caused and will continue over years, that he be held to a higher standard of punishment a this job and as Marines we are held to a higher standard.

Lance Corporal Tamez, Deanna
January 2, 2025

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Defense Exhibits Admitted

CORPORAL JESSE BOPP, U.S. MARINE CORPS

GENERAL COURT-MARTIAL

DEFENDANT EXHIBITS

DE A: Service Record Documents and Commendatory Materials

DE B: Mental Health Evaluation Report and Curriculum Vitae

DE C: Apology Letters, December 2023

DE D: SECNAV M-1640.1, 15 May 2019

DE E: MCI-East Regional Brig Progress Report

DE F: Family and Military Photos

DE G: Character Witness Statements

1. Staff Sergeant D. J. Travers, U.S. Marine Corps
2. Sergeant J. R. Grimison, U.S. Marine Corps
3. Corporal D. M. Tulanowski, U.S. Marine Corps (Former)
4. Anthony J. Bigger
5. John and Terry D'Amato
6. Annie Matte
7. Delany Bopp
8. Maureen Bopp
9. Thomas Bopp
10. Pete Little
11. Frank Horning
12. James Horning
13. Nathan Hilmer
14. Narciso J. Fellin
15. Daniel R. Gaggioli
16. Brigid Gaggioli
17. Elizabeth Shumaker
18. Bridget Geboy-Helfenstein

19. Clare Feitag
20. Therese Nitka
21. Edward Nitka
22. Dana Peters
23. David Peters
24. Adrianne Daggett
25. Jo Ellen Gonzo
26. Ellen and John Kraemer
27. Jason Kraemer
28. Linda M. Horning
29. Nicholas C. Rainey
30. Brigid C. Freitag
31. Charles and Barbara Albee
32. Elizabeth Bistan
33. James M. Dekeuster
34. Abby L. Horning
35. Joseph E. Horning and Elisabeth L. Beirstaker
36. Theresa Cagle
37. Jennifer T. Garson
38. Tessa B. Horning
39. Julie A. Hilmer

Character Witness Testimony

1. Gunnery Sergeant Conrad Cagle, U.S. Marine Corps (RET) (Telephonic)
2. Claire Feitag (Telephonic)
3. Tom Bopp (In Person)
4. Maureen Bopp (In Person)
5. Delany Bopp (In Person)
6. Annie Matte (In Person)

DE H: Corporal Bopp's Unsworn Statement

D

Master Billet Sheet (MBS)
ADMINISTRATIVE INFORMATION (Originates from MCTFS - Contact your Admin Section for Correction)
******* Controlled Unclassified Information (CUI) *******

Name	EDIPI	Grade	Rank	LCN	DOR	TIG	Current Duty Assignment	Title Description	DCTS
CPL BOPP, JESSE THOMAS	1846439650	E4	CPL		2022 03 01	1 yr. 7 mo.	[redacted]		2019 11 1

Key Data Summary	
DEAF	2019 08 20
TIS	4 yr. 9 mo.
PFBD	2019 01 14
AFADBD	2019 01 14
OSCO	2014 09 01
ACC COMM	
DOR COMM	
DSG PILOT	
DCADBD	2019 01 14
EAS	2026 01 13
MSR	
MRD	

Personal Awards

Military Occupational Specialties					
PMOS	2171	ELECTRO-OPTICAL ORDNANCE REPAIRER	AMOS6		
BMOS	2171	ELECTRO-OPTICAL ORDNANCE REPAIRER	AMOS7		
JOINT			AMOS8		
AMOS1			AMOS9		
AMOS2			AMOS10		
AMOS3			AMOS11		
AMOS4			AMOS12		
AMOS5			AMOS13		

Training Summary		
RIFLE	375 EXPERT	2021-09-17
PISTOL	375 EXPERT	2023-01-27
PFT	300 PARTIAL	2023-02-23
CFT	250 COMBAT WAIVER	2022-09-28
MCMAP	GRAY BELT	2021-04-30

Tested Languages | Self Professed

Education Summary

CIVILIAN		MILITARY				PME			
2018	12TH GRADE - HS ACADEMIC - HIGH SCHOOL LEVEL	2020	LANCE CORPORAL LEADERSHIP AND ETHICS SEMINAR	2019	BASIC ELECTRO-OPTICAL ORDNANCE REPAIRER	2022	CORPORALS COURSE DEP	2020	LEADING MARINES
		2019	MARINE COMBAT TRAINING	2019	RECRUIT TRAINING, MALE				
		2019	RECRUIT TRAINING, MALE						

****** Reporting Summary Official Information ******

Reporting Senior								
	At Processing				Cumulative			
Rank	Grade	Grade	Grade	Rank	Grade	Grade	Grade	Rank

Reviewing Officer								
	At Processing				Cumulative			
Rank	Grade	Grade	Grade	Rank	Grade	Grade	Grade	Rank

****** FITNESS REPORT LISTING ******

ADMINISTRATIVE SUMMARY						REPORTING SENIOR MARKINGS																REVIEWING OFFICER MARKINGS		
Grade	OCC	From	Months		Billet Description	Reporting Senior		Per	Pro	Cou	Eff	Ini	Lea	Dev	Sel	Ess	Co	PME	Dec	Jud	Eval	Reviewing Officer		RO marks - same grade at proc
BMOS	Type	To	Comm	Adv	Command	Promote	Reports	RPT Avg		Rs Avg		RS High		RPT at High			RV at Proc			Cum RV		Obser	Concur	RO marks - same grade cumul

DE A FID
Pg 1 of 24

TJEPTROS **** MCTFS RECORD OF SERVICE **** 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:39:21
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 01 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:
DOR: 20220301 AFADBD: 20190114 MCC: V26 PEBD: 20190114

PROFICIENCY/CONDUCT

OCC	PRO	CON	EFF DATE	OCC	PRO	CON	EFF DATE
SA	4.4	4.4	20210131				
SA	4.4	4.4	20200731				
SA	4.2	4.2	20200131				
TR	4.3	4.2	20191113				
TR	4.2	4.2	20190412				

********** CONTINUED **********
PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

DE A

TJEPTROS **** MCTFS RECORD OF SERVICE **** 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:39:55
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 02 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:

	PRO	CON
AVERAGE MARKS IN GRADE:	0.0	0.0
AVERAGE MARKS IN SERVICE:	4.3	4.3
AVERAGE MARKS IN ENLISTMENT:	4.3	4.3

SPECIAL DUTY BONUS POINTS: 0
COMMAND RECR BONUS POINTS: 0
REENLISTMENT BONUS POINTS: 0

COMPOSITE SCORE

COMP DATE	SCORE	COMP DATE	SCORE
20220301	0		
20210127	1499		
20201211	0		

********** C O N T I N U E D **********
PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

TJEPTROS **** MCTFS RECORD OF SERVICE **** 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:40:12
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 03 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:
DOR: 20220301 AFADBD: 20190114 MCC: V26 PEBD: 20190114

COMMAND MARKS

OCC	CHAR	MSN	LDR	FROM DATE	TO DATE
SA	3.4	3.9	3.6	20230201	20230731
SA	4.0	4.0	3.5	20220801	20230131
SA	2.5	3.2	2.7	20220301	20220731
PR	2.5	2.5	2.5	20220201	20220228
SA	3.0	3.0	3.0	20210801	20220131
SA	2.9	3.4	3.0	20210201	20210731
CV	3.8	3.8	3.8		20210131

********** C O N T I N U E D **********
PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

DE A

TJEPTROS **** MCTFS RECORD OF SERVICE **** 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:40:21
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 04 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:

	CHAR	MSN	LDR
AVERAGE MARKS IN GRADE:	3.3	3.7	3.3
AVERAGE MARKS IN SERVICE:	3.2	3.4	3.2
AVERAGE MARKS IN ENLISTMENT:	3.2	3.4	3.2

SPECIAL DUTY BONUS POINTS: 0
COMMAND RECR BONUS POINTS: 0
REENLISTMENT BONUS POINTS: 0

JEPES SCORE

COMP DATE	SCORE	COMP DATE	SCORE
20230925	0379	20230625	0374
20230821	0379	20230625	0374
20230720	0374	20230620	0374
20230625	0374	20230522	0358

********** C O N T I N U E D **********
PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

TJEPTROS **** MCTFS RECORD OF SERVICE **** 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:40:26
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 05 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:

JEPES SCORE CONTINUED

COMP DATE	SCORE	COMP DATE	SCORE
20230424	0358	20210719	0469
20230413	0358	20210621	0503
20230320	0358	20210520	0503
20230216	0358	20210427	0460
20220217	0457	20210323	0460
20220120	0437		
20211220	0437		
20211123	0442		
20211025	0442		
20210921	0442		
20210823	0442		

********** C O M P L E T E D **********
PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

TJEPTBIR MCTFS BASIC INDIVIDUAL RECORD 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:25:30
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 01 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:

---------- CONTRACT INFORMATION ----------

EAS: 99999999 COMPONENT CODE: 11 USMC ENLISTED
EOS: 20260619 ECC: 20240113 RESERVE COMPONENT CODE:
RESERVE ECC: 00000000 DATE ACCEPTED FIRST COMMISSION: 00000000
DATE OF ENL/ACCEPT: 20190114 DOD TRNGRP: TRAINING GRP:
AFADB: 20190114 PEBD: 20190114 MANDATORY DRILL START: 00000000 END: 00000000
DATE OF ORIG ENTRY: 20180620 DATE OF BASIC ELIG: 00000000 MDP EXT MO: 00
LENGTH CURR ENL: 5 YRS PEF: MG MARINE GUARD
LENGTH CURR ENL: 00 MOS BONUS PEF: 0B NONE
LENGTH CURR EXT: 00 MONTHS COLLEGE FUND PEF: 0C NONE
NO EXT CURR ENL: 00 MGIB-SR STATUS:
TOTAL MONTHS EXT: 00 MONTHS ACTIVE DUTY MGIB STATUS: 5 OVEBP CODE: 3
EFF DTE CURR EXT: 00000000
MONTHS LAST ENL EXT: 00
TIME LOST CURR ENL: 0000 DAYS DESIG MIL PILOT: 00000000
SOURCE OF INT ENTRY MIL SER: C 6 YEAR OBL START: 00000000
SOURCE OF ENTRY: ADBA

********** C O N T I N U E D **********

PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

DE A

Pg 7 of 24

TJEPTBIR MCTFS BASIC INDIVIDUAL RECORD 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:25:42
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 11 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:
----------CG/CO/OIC INFORMATION ----------

CODE	DESC	PROM AUTH	FROM DATE	TO DATE

*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***
********** C O M P L E T E D **********
PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

DE A

Pg 8 of 24

TJEPTBIR MCTFS BASIC INDIVIDUAL RECORD 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:26:23
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 10 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:

---------- DUTY STATUS INFORMATION ----------

DUTY STATUS: M/CONFINED HELD BEYOND ECC
DUTY LIMIT: 0/NONE
DUTY LIMIT ED: 20231129
STR CAT: 0/ON DUTY W/BILLET THAT SERVES COMMAND MSN
STR CAT ED: 20221202
COMBAT CAS:
COMBAT CAS ED: 00000000

---------- RETIREMENT INFORMATION ----------
DATE 1ST ELIG RET (RES): 00000000
RET/FMCR DATE: 00000000
RET/FMCR FLAG:
RET/FMCR STAT:
RET/RETN FLAG:
RET/RETN DATE: 00000000

********** C O N T I N U E D **********

PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

TJEPTBIR MCTFS BASIC INDIVIDUAL RECORD 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:26:32
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 09 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:

---------- BILLET IDENTIFICATION ----------

FUTURE BILLET IDENT CODE: A0000000000

ASSIGNED BILLET IDENT CODE: A0000000000

PRESENT BILLET IDENT CODE: M1317100210

RESERVE BILLET IDENT CODE:

FAP BILLET IDENT CODE:

FORMER BILLET IDENT CODE: M1215100412

********** C O N T I N U E D **********

PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

DE A

Pg 10 of 24

TJEPTBIR MCTFS BASIC INDIVIDUAL RECORD 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:26:35
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 08 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:

---------- DEPENDENTS INFORMATION ----------

REL CD	SEX CD	DOB	DEPN NAME	GAIN DATE	LOCATION

*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***
FOR DETAILED REMARK INFORMATION INPUT CATEGORY CODE D150 REMARK DETAIL SCREEN
********** C O N T I N U E D **********
PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

TJEPTBIR MCTFS BASIC INDIVIDUAL RECORD 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:26:39
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 07 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:

---------- RECORD INFORMATION ----------

RECORD STATUS: 0 ACTIVE STATUS RESERVE RECORD STATUS:
DISPUTED DATE: 00000000 DISPUTED DATA:
LAST SCREENING: 20191114 REASON: 2 ANNUAL SCREEN QUEST
SCREENING RESULT: Z ANNUAL SCREENING COMPL FOR ACDU ONLY
BAH DEPN CERTIFICATION DT: 20191114

---------- DEPENDENTS INFORMATION ----------

MARITAL STATUS: S SINGLE NBR DEPN AUTH TRAVEL: 00
DEPN CERT CODE: NONE
DEPN GEO LOC CODE: DATE DEPN LOC BEGAN: 00000000
CUSTODY STATUS CODE: 0
SERVICE SPOUSE CODE: FAM CARE PLAN VAL DT: 00000000
SERVICE SPOUSE DATE: 00000000

********** C O N T I N U E D **********
PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

TJEPTBIR MCTFS BASIC INDIVIDUAL RECORD 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:26:42
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 06 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:

---------- PERSONAL INFORMATION ----------

WORK EMAIL: JESSE.BOPP@USMC.MIL

WORK EMAIL DATE: 20230126
PERSONAL EMAIL: JT.BOPP74@GMAIL.COM

PERSONAL EMAIL DATE: 20230126
SECONDARY EMAIL:

********** C O N T I N U E D **********

PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

TJEPTBIR MCTFS BASIC INDIVIDUAL RECORD 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:26:46
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 05 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:

---------- PERSONAL INFORMATION ----------

HOME TELEPHONE NUMBER: 262-352-1659
CELL PHONE NUMBER: 414-526-7818
SECONDARY PHONE NUMBER:
WORK TELEPHONE NUMBER: 910-451-3054
WORK DSN PHONE NUMBER PREFIX: 000
MAILING ADDRESS: 2755 SOUTH 130TH STREET
NEW BERLIN WI 531510000
ADDRESS VALIDATION: J MOL VALIDATION ONLY
PHYSICAL ADDRESS:
000000000

********** C O N T I N U E D **********

PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

TJEPTBIR MCTFS BASIC INDIVIDUAL RECORD 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:26:50
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 04 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:

---------- PERSONAL INFORMATION ----------

DATE OF BIRTH: 20000414
HOME OF RECORD: 55 133 3352 WI WAUKESHA
HOME OF RECORD ZIP CODE: 531513225
CITIZENSHIP: CA US
COUNTRY OF ORIGIN: US UNITED STATES
BLOOD TYPE: 2 A POS
CIVILIAN ED LEVEL: 12 12TH GRADE
SEX: M
CERT: L HS DIPL
MAJ: 530101 REGULAR/GENERAL HIGH SCHOOL/SECON
RACE AGG CODE: E RACE CODE: E WHITE
POPULATION GROUP: WHITE
ETHNIC CODE: P EUROPEAN/ANGLO
RELIGION: ZW NO PREFERENCE
DNA DATE: 20190314 HIV-TESTED: 202203
GOOD CONDUCT MEDAL DATE: 20220114 SMCR MEDAL DATE: 00000000
ARMED FORCES RESERVE MEDAL DATE: 00000000

********** C O N T I N U E D **********

PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

TJEPTBIR MCTFS BASIC INDIVIDUAL RECORD 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:26:54
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PAGE: 03 PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:
---------- SERVICE INFORMATION ----------
RCSP REGION CODE: RCSP REGION ASSIGN DATE: 00000000
RCSP REGION DESCRIPTION:
GEO LOC CODE: 285 RCSP COMPLETE FLAG:
GEO LOC DCTB: 201911
COMBAT SERV CODE: ROTATION TOUR DATE: 00000000
LAST COMBAT TOUR: 00000000 OVERSEAS CONTROL DATE: 20140901
OFF REMOVAL DATE: 00000000 LAST PHYS EXAM: 00000000
RESERVE UNIT JOIN DATE: 00000000 PHA DATE: 00000000
LAST SEP/DISCH DATE: 00000000
REASON:
PMOS: 2171 ADMOS1: ADMOS6: ADMOS11:
BMOS: 2171 ADMOS2: ADMOS7: ADMOS12:
SMOS: 0000 ADMOS3: 0300 ADMOS8:
JMOS: ADMOS4: ADMOS9:
JMOS ED: 00000000 ADMOS5: ADMOS10:
LAW ENFORCE/COUNTERINTEL ID: ISSUE DATE: 00000000
********** C O N T I N U E D **********
PF1-HELP PF3-EXIT TO TFIR MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

TJBPAWDS **** AWARDS **** 12/30/2024
BBLSGS ENTER NEXT EDIPI: _____ ENTER CATG: ____ SEQ NBR: _____ 10:32:06
EDIPI [redacted] NAME: BOPP, JESSE T
RUC: 13170 COMPANY CODE: R PRES-GRADE: E4 RECSTAT: 0 COMP CODE: 11
PLT CODE: RBHS TRNGRP: R-RECSTAT: RCOMP CODE:

CODE	ENGLISH	NUMBER
SD	SEA SERVICE DEPLOYMENT RIBBON	001
GC	MARINE CORPS GOOD CONDUCT MEDAL	001
WT	GLOBAL WAR ON TERRORISM SERVICE MEDAL	001
NN	NATIONAL DEFENSE SERVICE MEDAL	001
CF	CERTIFICATE OF COMMENDATION (INDIVIDUAL AWARD)	001

GOOD CONDUCT MEDAL DATE: 20220114
ARMED FORCES RESERVE MEDAL DATE: 00000000
SMCR MEDAL DATE: 00000000
********** C O M P L E T E D **********
PF1-HELP PF3-EXIT TO MAIN MENU PF7/PF8-SCROLL BACK/FWD PF12-LOCAL PRINT

DE A

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United States Marine Corps

Certificate of Commendation

COMMANDING OFFICER
2D BATTALION, 6TH MARINES
takes pleasure in commending
LANCE CORPORAL JESSE T. BOPP
UNITED STATES MARINE CORPS
for

SUPERIOR PERFORMANCE OF DUTY WHILE SERVING AS MODIFICATIONS NONCOMMISSIONED OFFICER, BATTALION ARMORY, 2D BATTALION, 6TH MARINE REGIEMNT, 2D MARINE DIVISION, FROM 1 OCTOBER 2020 THROUGH 30 JANUARY 2021. DURING THE PERIOD, LANCE CORPORAL BOPP PERFORMED HIS DUTIES IN AN EXEMPLARY AND HIGHLY PROFESSIONAL MANNER. THROUGH CONTINUED COORDINATION WITH EXTERNAL AGENCIES, HE SUCCESSFULLY EXECUTED BOTH URGENT AND NORMAL MODIFICATIONS OF 81 MILLIMETER MORTARS, COMMON LASER RANGE FINDERS, AND LIGHTWEIGHT HANDHELD MORTAR BALLISTIC COMPUTERS. HIS EXCEPTIONAL ATTENTION TO DETAIL, WHEN RECORDING MAINTENANCE RECORDS, PROVED TO BE CRITICAL TO SUCCESS DURING INSPECTION OF THE BATTALION ARMORY'S 15,000 SERIALIZED ITEMS, WITH ONLY ONE DISCREPANCY BEING FOUND. LANCE CORPORAL BOPP'S EFFORTS RESULTED IN A 98% FUNCTIONAL AREA SCORE DURING THE UNITS FIELD SUPPLY AND MAINTENANCE ANALYSIS OFFICE INSPECTION. LANCE COPRORAL BOPP'S DETERMINATION, PERSEVERANCE, AND STEADFAST DEDICATION TO DUTY REFLECTED CREDIT UPON HIM AND WERE IN KEEPING WITH THE HIGHEST TRADITIONS OF THE MARINE CORPS AND THE UNITED STATES NAVAL SERVICE.

1 APRIL 2021
Date

R. B. COHEN
LIEUTENANT COLONEL, U. S. MARINE CORPS
COMMANDING

NAVMC 10631(REV. 8-83) S/N 0109-LF-064-0700

La Société Honoraire de Français

Fondée en 1949 sous les auspices de l'American Association of Teachers of French

La Présidente de la SHF certifie que

JESSE BOPP

est membre de la Société Honoraire de Français en raison de sa connaissance approfondie de la langue et de la culture françaises.

Décerné mars 2017

Abbe Guillet Présidente

©AATF 2017

President's Education Awards Program

PRESIDENT'S AWARD FOR EDUCATIONAL EXCELLENCE

presented to

Jesse Bopp

in recognition of

Outstanding Academic Excellence

2018

Betsy DeVos

U. S. Secretary of Education

Donald Trump

President of the United States

Matthew M. Leon

Principal

Nathan Hale High School

School

NATHAN HALE HIGH SCHOOL

11601 W. LINCOLN AVE. • WEST ALLIS • WI • 53227 • 414-604-3200 • FAX 414-546-5734
THE SCHOOL DISTRICT OF WEST ALLIS - WEST MILWAUKEE, ET AL.

May 22, 2018

Jesse Bopp

Congratulations on being selected as a recipient of the

President's Award for Educational Excellence

The faculty of Nathan Hale High School is extremely proud of your accomplishments and wishes you the best of luck in all future endeavors.

Sincerely,

Matthew M. Lesar

Matthew M. Lesar
Principal

Student Achiever Award

Jesse Bopp
name of student

has been recognized for academic success by

Nathan Hale High School
school

grade 12 on May 22, 2018
date

Cecelia Gore
Executive Director
Brewers Community Foundation

Craig Counsell
Manager
Milwaukee Brewers Baseball Club

DE A

West Allis-West Milwaukee District Administration

Marty Lexmond,	Superintendent

West Allis Central High School Administration

Dr. Amy Van Deuren,	Principal
Deann Yaklich,	Assistant Principal
Paul Bursi,	Assistant Principal
Katie Coleman,	Dean of Students
Kent Kleinowski	Academic Dean

West Allis Nathan Hale High School Administration

Matthew M. Lesar,	Principal
Connie Bergmann,	Assistant Principal
Aaron Norris,	Assistant Principal
Mary Washbush	Academic Dean

West Allis-West Milwaukee Board of Education

Dan Bailey	Stephanie Emons
Heather Justham	Sue Sujecki
Patricia Kerhin	Diane Narlock
Gail Radonski	Jeff Sikich
Bill Ustruck	

2017 German National Honor Society Inductees (Hale)

Sean Borak	Anna Kolman
Paige Rutowski	Amber Lee
Alyssa Borowski	Olivia Tiarks
Gavin Kosek	Emily Wolfgram
Keegan O'Brien	

Returning German National Honor Society Members (Hale)

Marinella Krezic	Elaude Koenig
Abby Scardino	Melanie Freet
Sarah Muller	Kaitlin Palkowski

2017 French National Honor Society Inductees (Hale)

Emmanuel Flores	Alyssa Noseworthy
Ariana Nororis	Julia Smessaert
Migdalia Torres	Natalia Leguizamon
Nydia Morales	Madison Zeiske
Nicole Kleist	Bryanna Jensen
Jesse Bopp	Larissa Montesinos
Evelyn Parada-Custodio	Malina Scarpaci
Brittany Slichter	

Returning French National Honor Society Members (Hale)

Annabella D'Amore	Teagan Budny
Christopher Kelly	Makayla Zimmer
Erika Koester	Jacquelyn Walter
Zita-lyn Dixon	Zachary Mitchell
Samantha Poborsky	Diana Koltermann

2017 German National Honor Society Inductees (Central)

Victoria Treul	Evan Heinrich
Benjamin Reinhardt	Rachel Merkel

Returning German National Honor Society Members (Central)

Laura Rampetsreiter	Holden Skeels
Star Matumeak	Heather Makkos
Julian Simmerman	Jadyn Miller-Mosehart
Katya Miller	Adonis Patrick
Tyler Bohringer	Daniel Bohringer
Eizin Nge	Destiny Ostrowski
Grant L'Amie	Joseph Gerhartz
Kirk Kurer	Kaily Ratz

2017 French National Honor Society Inductees (Central)

Sara Albert	Justin Jarumbo
Simone Leflore	Vanessa Martin
Dora Mercado	Aaron Prinz
Zihan Yin	

Returning French National Honor Society Members (Central)

Aitza Cabrera	Nora Gosetti
Gavin Lemay	Lizbeth Martinez
Griselda Monreal	Armando Murillo
Brendan Plank	Antionette Powell
Jose Ruvalcaba	Jacqueline Sanchez Mora
Nova Terkhorn	Danielle Zube

Welcome to the
West Allis Central High School
and
Nathan Hale High School
Induction Ceremony for
Delta Epsilon Phi, Deutsche Ehrenverbindung
The National Honor Society
for
High School Students of German
and
La Societe Honoraire de Français
The National Honor Society
for
High School Students of French
Tuesday the 21st of March 2017
Nathan Hale Auditorium
West Allis, Wisconsin

DE A
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LCDR Marcus R. VanSickle, PhD, ABPP, MP
Forensic Medical and Clinical Psychologist
Psychopharmacologist
Telephone: 443-654-5824; Email: mvansic@nsa.gov

EDUCATION

2017 – 2019 **Fairleigh Dickinson University, Teaneck, NJ**
Post-Doctoral Master of Science in Clinical Psychopharmacology

2011 – 2016 **Uniformed Services University of the Health Sciences, Bethesda, MD**
Department of Medical and Clinical Psychology (APA-Accredited)
Master of Science (MS, 2014)
Thesis: Opinions on Suicide and Perceived Barriers to Care in a Sample of United States Marine Non-Commissioned Officers: Implications for Future Frontline Supervisors' Suicide Prevention Training Programs.
Doctor of Philosophy (Ph.D., 2016)
Doctoral Dissertation: Development and Psychometric Evaluation of a Military-Specific Measure of Suicide Attitudes: The Military Suicide Attitudes Questionnaire (MSAQ).

2008 – 2011 **University of Illinois at Chicago, Chicago, IL**
Bachelor of Arts in Applied Psychology

LICENSURE AND BOARD CERTIFICATION

Virginia: Clinical Psychology: 0810005470 (Initial: 2016)
Maryland: Clinical Psychology: 06893
Louisiana: Medical Psychology: 321492 (Initial: 2019)

American Board of Professional Psychology, Behavioral and Cognitive Psychology: 8802
Neuroscience Education Institute, Master Psychopharmacology Certificate (2022)

SPECIALIZED TRAINING

2021 – 2023 **Center for Forensic Behavioral Sciences, Walter Reed National Military Medical Center**
Post-Doctoral Fellowship for Specialization in Forensic Psychology (APA-Accredited)

2022 **The Judge Advocate General's Legal Center and School**
Criminal Law (5-week course)

2018 – 2019 **Fort Belvoir Community Hospital**
Supervised practice for prescriptive authority

2015 – 2016 **Naval Medical Center Portsmouth, Portsmouth, VA**
Clinical Psychology Internship (APA-Accredited)

2014 - 2015 **National Institutes of Health, Neuropsychology Consultant Services**
Neuropsychology externship with emphasis on evaluation of impairment associated with general or undiagnosed medical conditions.

2013 - 2014 **Marine Corps Embassy Security Group**
Operational psychology externship with focus on assessment and selection for high-visibility and sensitive positions in joint US Marine Corps and Department of State program.

FORENSIC EXPERIENCE

Apr 2023 – Present
Commonwealth of Virginia
Approved Competency and Responsibility Evaluator
Duties: Conduct court ordered evaluations for competency to stand trial and mental responsibility. Provide invited lectures to the Virginia Department of Behavioral Health and Developmental Services.

June 2021 – June 2023
Center for Forensic and Behavioral Sciences
Post-Doctoral Fellowship in Forensic Psychology (APA Approved)
Duties: Complete specialization training through didactic coursework and practical application of psycholegal principles. Conduct forensic evaluations and provide expert witness testimony and consultation regarding a wide range of forensic issues including competence to stand trial, mental status at time of offense, violence risk assessment, alcohol and memory, counterintuitive victim behavior, and false confession risk. Conduct independent research in the area of forensic psychology.

Feb 2023 – Present
Clifton T. Perkins Hospital Center
Forensic Psychology Post-Doctoral Fellow
Duties: Complete initial competency to stand trial and mental responsibility evaluations. Complete competency re-evaluations and risk assessments. Generate recommendations for risk mitigation strategies for courts and treatment facility.
Supervisor: Dr. Kate Schrumpf

Apr 2022 – Dec 2022
US Government Agency
Forensic Psychology Post-Doctoral Fellow
Duties: Conduct pre and post deployment assessments for suitability of personnel. Conduct annual fitness for continued duty assessments of law enforcement personnel. Conduct hiring evaluations for personnel considered for sensitive positions. Conduct psychological assessment and evaluation of agency personnel for suitability of continued service following adverse events. Conduct psychological assessments and evaluations of US Government contractors being considered for work within the agency. Conduct insider threat evaluation and analyses as needed.
Supervisor: Dr. Rachel Kalbeitzer

Aug 2021 – Feb 2022
Federal Bureau of Investigation, Behavioral Analysis Unit
Forensic Psychology Post-Doctoral Fellow
Duties: Provide psychological expertise to support mission of BAU-1 (threat assessment), adjacent units, and collaborating agencies. Review relevant and applicable research, case material, and historical case data in order to provide analysis and recommendations related to risk, risk mitigation strategies, and intervention options.
Supervisor: SSA Mond Mugiya

SPECIALTY EVALUATIONS

R.C.M. 706; CST and Mental Responsibility: 20

Risk and Recidivism Evaluations: 5

- Sexual Violence, Domestic Violence, Violence, and Firearm Risk

Fitness for Duty Evaluations (military, police, special duty): 500+

TESTIMONY AND CONSULTATION

- US v. Gonzalez (Defense, 2023): Expert in the fields of Forensic Medical Psychology and Cognition and Memory
  - Testimony Provided on Parasomnias and Sleep Inertia, Cognition and Memory, and Source-Monitoring Errors.
- US v. Predvil (Defense, 2023): Expert in the fields of Forensic Medical Psychology and Cognition and Memory
  - Testimony Provided on Memory, Memory Errors, Impact of Alcohol on Memory, Trauma and Trauma-Focused Therapy Impact on Memory, and False Confession Risk.
- US v. Hamrick (Defense, 2023): Consultation on Alcohol and Memory
- US v. Morgan (Defense, 2022): Expert in the fields of Forensic Medical Psychology and Cognition and Memory
  - Testimony Provided on Memory, Memory Errors, Impact of Alcohol on Memory, Bias, and Factors Impairing Eyewitness Identification and Testimony
- US v. Clawson (Defense, 2022): Consultation on Alcohol and Memory and Counter-Intuitive Victim Behavior
  - Testimony Provided Regarding Need for Expert Consultation
- US v. Mason (Government, 2022): Expert in the fields of Medical Psychology and Cognition and Memory
  - Testimony Provided on Alcohol and Memory, Psychotropic Medication and Memory, Trauma Reactions
- US v. Singletary (Government, 2022): Alcohol and Memory, Specific Intent, Counter-Intuitive Victim Behavior
- US v. Brown (Government, 2021): Marijuana and Memory
- US v. Allen (Defense, 2021): Alcohol and Memory
- US v. Jackson (Defense, 2021): Alcohol and Memory, Alcohol Myopia

FORENSIC TRAINING LECTURES AND COURSES ATTENDED

March-July 2023	Sexual Violence Risk Assessment and Management, Forensic Testimony, Medical Marijuana, Adjudicative Competency, Disability Evaluations, Parasomnias
February 2022	Defense Counsel Assistance Program (5-day course, DCAP, U.S. Army). Provided training on alcohol and memory, served as expert witness consultant to mock trials.
July 2021-Dec 2021	Ethics of Expert Witnessing, Competency to Stand trial, Insanity Defenses, Forensic Report Writing, Violence Risk Assessment I and II, Forensics and Sexual Assault, Duty To Protect, Intimate Partner Violence, Sex and Child Sex Offender Risk, Psychopathy And Sociopathy, False Confessions, Right to Refuse Treatment/Right to Die, Mens Rea Defenses, Malingering and Deception, Civil Competencies, Death Penalties, Counter-Intuitive Victim Behaviors, Sexually Violent Predator Laws, Cultural Factors in Forensic Assessment, Mental Health and Incarceration, Criminal Responsibility, Alcohol Facilitated Sexual Assault, Sexual Offender Recidivism, Sleep Medicine, Police Psychology, Forensic Toxicology, Correctional Psychology, Forensic Research

CLINICAL AND OPERATIONAL EXPERIENCE

July 2023 – Present	**Command Psychologist** Marine Forces Cyber and Space Command

Duties: Advise Commander on mental health policy and procedures in support of joint personnel assigned to MARFORCYBER AND MARFORSPACE commands. Provide Operational Psychology support to Cyber Mission Forces. Collaborate with multi-national partnership in the research, development, and employment of Operational Psychology tools. Oversee mental health services and conduct clinical triage and care for joint forces.

May 2019 – May 2021

Group Psychologist, Embedded Mental Health
Commander, Naval Surfaces Group, Mid-Pacific
Duties: Clinical care, education and training, prevention and outreach, and emergency triage for all surface ships assigned to Naval Base Pearl Harbor. Command consultation regarding mental health needs, leadership development, and unit cohesion. Responsible for medication management and psychotherapy treatment for 3,200+ Sailors assigned to the surface fleet. Established and supervised post-doctoral psychology rotation within embedded mental health. Supervised Military Family Life Counselors assigned to support Sailors and their families.

July 2018 – May-2019

Chief, Intensive Outpatient Behavioral Health; Psychologist
Fort Belvoir Community Hospital, Adult Behavioral Health
Duties: Established and led IOP to provide focused, evidence-based treatment for posttraumatic stress, major depression, and anxiety disorders. Identified and tracked appropriate outcome metrics to assess effectiveness longitudinally. Lead team of 6 providers to deliver care for active duty service members, supervised embedded Randomized Clinical Trial evaluating massed Cognitive Processing Therapy for PTSD.

Oct 2017 – June 2018

Assistant Officer in Charge; Psychologist
Joint Stress Mitigation and Restoration Team, Guantanamo Bay, Cuba
Duties: Co-lead team in behavioral health prevention efforts and outreach, leadership coaching, and delivery of behavioral health treatment and assessment to deployed active duty forces.

Aug 2016 – Oct 2017

Deputy Chief, Adult Outpatient Behavioral Health; Psychologist
Fort Belvoir Community Hospital, Adult Behavioral Health
Duties: Provide individual therapy to the active-duty forces and their families located within the National Capital Region. Initiate and advance military-relevant research related to suicide prevention. Co-led department of 21 providers and 3 behavioral health technicians.

TEACHING EXPERIENCE

Spring 2022 Adjunct Professor, George Mason University, Department of Psychology
Summer 2018 Instructor, Columbia College: Introduction to Psychology

RESEARCH EXPERIENCE

Aug 2011 – Present

Independent Researcher
United States Navy, Medical and Clinical Psychologist
Focus: Research focus on areas of forensic assessment, military suicide prevention, access/barriers to mental health care, and attitudes toward suicide and mental health treatment seeking. Initiate service-wide research initiatives with direct applicability to operational environments. Evaluation of clinical outcomes and training initiatives designed to improve delivery of behavioral health care within military settings.

MILITARY EXPERIENCE

June 2011 – Present	**Lieutenant Commander, Medical Service Corps** United States Navy
Sept 2001 – June 2011	**Staff Sergeant** United States Marine Corps

SELECTED ACHIEVEMENTS AND AWARDS

Fellow, American Psychological Association
Early Career Achievement Award, Division 19 (Military Psychology), American Psychological Association
Surface Warfare Medical Department Officer (SWMDO) Qualified
Junior Navy Psychologist of the Year (2018)
Honor Graduate, USMC Staff Non-Commissioned Officers Academy (2007)

Joint Service Commendation Medal (2)
Navy Commendation Medal (2)
Joint Service Achievement Medal
Navy Achievement Medal (2)
Iraq Campaign Medal
Global War on Terrorism Expeditionary Medal
Marine Corps Good Conduct Medal (3)
Outstanding Volunteer Service Medal

MILITARY TRAINING

Surface Warfare Medical Department Officer Indoctrination Course (2021)
Navy Officer Development School, Newport, RI (2013)
Marine Officer Candidate School, Quantico, VA (2011)
Sergeants Course, Staff-Noncommissioned Officer Academy, Quantico, VA (2007)
Martial Arts Instructors Course, Martial Arts Center for Excellence, Quantico, VA (2007)
Marine Recruit Training, Parris Island, SC (2001)

PUBLICATIONS

Cramer, R. J., Montanaro, E., **VanSickle, M.**, Cacace, S., Zabelski, S., Smith, E. L., Franks, M., Grover, S., & Cunningham, C.A. (2022). A Psychometric Assessment of the Military Suicide Attitudes Questionnaire (MSAQ). *Psychiatry Research.*

VanSickle, M., Arthur, E., & LaCroix, J. (2022). Military stress reactions. In C. H. Kennedy & E. A. Zilmer, (Eds.), *Military Psychology* (3rd ed). New York: Guilford.

VanSickle, M., Tucker, J., Daruwala, S., & Ghahramanlou-Holloway, M. (2016). Development and psychometric evaluation of the Military Suicide Attitudes Questionnaire (MSAQ). Journal of Affective Disorders, 203 158-165.

VanSickle, M. Holloway, M., Zoellner, L., Tussenbrock, B., & Neely, L. (2015). Tactical level leadership and military suicide prevention. North Atlantic Treaty Organization (NATO), Research and Technology Organisation (RTO), Research Task Group (RTG) on Military Suicide, 218. Paris, France.

VanSickle, M., Werbel, A., Perera, K., Pak, K., DeYoung, K., & Ghahramanlou-Holloway, M. (2016).

Principal component analysis of the suicide opinion questionnaire in United States military sample of Marine Corps non-commisioned officers. Military Medicine(7), 672-679.

VanSickle, M., Werbel, A., Perera, K., Pak, K., DeYoung, K., & Ghahramanlou-Holloway, M. (2016). An empirical investigation of the principal component structure of the perceived barriers to care measure in a United States military sample of Marine Corps non-commissioned officers. Psychological Assessment. Advance online publication.

Ghahramanlou-Holloway, M., LaCroix, J. M., Koss, K., Perera, K., Rowan, A., **VanSickle, M.**, Novak, L., & Trieu, T. (2018). Outpatient mental health treatment utilization and military career impact in the United States Marine Corps. International Journal of Environmental Research and Public Health, 15, 828.

Koss, K., Neely, L., Tucker, J., **VanSickle, M.**, & Ghahramanlou-Holloway, M. (2014). Impuslivity, problem-solving, and suicide: Assessment and treatment considerations in the context of scientific literature. In M. A. Cyders (Ed.), Psychology of Impulsivity: New research. New York: Nova Publications.

NATIONAL PRESENTATIONS

VanSickle, M. (March, 2023). Unique aspects of functioning as a forensic psychology expert or forensic psychology consultant within a military environment. Paper accepted for presentation at the American Psychology-Law Society Annual Conference.

Montalbano, P., Mumley, D., Barrigher, P., Cardona, N., **VanSickle, M.**, & Collins, C. (June, 2022). Forensic Psychology. Panel presented at the American Psychological Association, Division 19 (Military), Summit (Virtual).

VanSickle, M., Dondanville, K., & Holloway, K. (June, 2022). Perspectives on Military Implementation. Panel presented at the Military Suicide Research Consortium Implementation Science Institute. (Virtual).

Cramer, R.J., Montanaro, E., **VanSickle, M.**, Cacace, S., Zabelski, S., Smith, E.L., Franks M., Grover, S., & Cunningham, C.A.(June, 2022). A psychometric assessment of the military suicide attitudes questionnaire (MSAQ) in two military samples. Paper presented at the inaugural Suicide Research Symposium (SRS) (Virtual).

VanSickle, M., Lacroix, J., Montalbano, P., Holloway, M., Cramer, R., & Cacace, S. (2022, March). Developing a Ship Captain's Decision Aide for Firearm Return. Paper presented at the Annual Meeting of the International Military Testing Association, Raleigh, NC.

VanSickle, M., LaCroix, J., Kerr, N., Fox, A., Ghahramanlou-Holloway, M. (2019, April). Adaptation, Feasibility, Acceptability, and Fidelity of a Brief, Group-Based Cognitive-Behavioral Therapy Intervention for Suicide in a Military Treatment Facility. Panel presented at the Annual Meeting of the American Association of Suicidology, Denver, CO.

VanSickle, M. Ghahramanlou-Holloway, M. (2017, April). Brief assessment and intervention on suicide attitudes and barriers to mental health care aboard a U.S. Naval vessel. Paper presented at the Annual Meeting of the American Association of Suicidology, Phoenix, AZ.

VanSickle, M., Bryan, C., Gutierrez, P., & Ilgen, M. (2016, March). Innovative assessment instruments in suicide prevention: Development, empirical validation, and recent findings in military and veteran samples. M. Gharhramanlou-Holloway (Discussant). Symposium presented at the Annual Meeting of the American Association of Suicidology, Chicago, IL.

VanSickle, M., Daruwala, S., & Ghahramanlou-Holloway, M. (2015). Development and Psychometric Evaluation of the

Military Suicide Attitudes Questionnaire. Paper presented at the Annual Meeting of the American Psychological Association, Toronto, Canada.

VanSickle, M. & Ghahramanlou-Holloway, M. (2014). Opinions on Suicide and Perceived Barriers to Care in Marine NCOs: Implications for Suicide Prevention. Paper presented at the Annual Meeting of the American Psychological Association, Washington, DC.

VanSickle, M. & Ghahramanlou-Holloway, M. (2014). A Principal Components Analysis of the Perceived Barriers to Care Measure in a U.S. Marine Sample. Poster presented at the Annual Meeting of the American Psychological Association, Washington, DC.

VanSickle, M., Pak, K., Werbel, A., Perera, K., DeYoung, K., & Ghahramanlou-Holloway, M. (2014). Validation of the Suicide Opinion Questionnaire in a Sample of United States Marine Non-Commissioned Officers. Poster accepted for presentation at the Annual Military Health System Research Symposium (MHSRS), Fort Lauderdale, FL.

SELECTED INVITED LECTURES

2023. Counter-Intuitive Victim Behavior. Guest Lecturer for the USMC Regional Trial Counsel Training Symposium, Camp Pendleton, CA.

2023. Alcohol and Memory. Guest Lecturer for the USMC Regional Trial Counsel Training Symposium, Camp Pendleton, CA.

2023. Vicarious Trauma and Burnout. Guest Lecturer for the USMC Regional Trial Counsel Training Symposium, Camp Pendleton, CA.

2023. Understanding Victim Behavior. Guest Lecturer for the Judge Advocate General's Legal Center and School, Charlottesville, VA.

2023. Alcohol and Memory. Guest Lecturer for the Judge Advocate General's Legal Center and School, Charlottesville, VA.

2023. Vicarious Trauma and Burnout: Lawyer Edition. Guest Lecturer for the Judge Advocate General's Legal Center and School, Charlottesville, VA.

2023. Counter-Intuitive Victim Behaviors. Invited presentation to the Army Defense Counsel Assistance Program. Fort Belvoir, VA.

2022. R.C.M. 706 Evaluations. Invited presentation to the Annual Navy Psychology Training Summit at Naval Medical Center Portsmouth, Portsmouth, VA.

2022. Ethical Challenges in Forensic Work: Tales from the Road. Invited presentation to the Annual Navy Psychology Training Summit at Naval Medical Center Portsmouth, Portsmouth, VA.

2022. R.C.M. 706 Evaluations for the Non-Forensic Psychologist. Guest Lecturer for the Psychology Pre-Doctoral Internship Program at Walter Reed National Military Medical Center, Bethesda, MD.

2022. Suicide Risk Assessment and Safety Planning. Guest Lecturer for Malcolm Grow Mental Health Department, Joint-Base Andrews, MD.

2022. Forensic Psychology for Future Military Clinicians: MRE 513 and Other Relevant Topics. Guest Lecturer for Division 19 of the American Psychological Association, Bethesda, MD (virtual).

2022. Vicarious Trauma and Burnout in Lawyers. Guest Lecturer for the Judge Advocate General's Legal Center and School, Charlottesville, VA.

2022. Alcohol and Memory. Guest Lecturer for the Army Defense Counsel Assistance Program, Charleston, SC.

2021. Things they didn't teach you in graduate school; Public policy as a military psychologist. Guest Lecturer for Public Policy (Pat DeLeon) at the Uniformed Services University.

2018. Self-Care for the Passionate Professional when working with High Risk Clients. Invited talk for the U.S. Navy's SAIL Clinicians.

2017. Suicide Prevention Research in Military Settings. Invited talk and faculty mentor for the Military Suicide Research Consortium.

2016. Columbia Suicide Severity Rating Scale and Safety Planning. Invited talk to the Naval Medical Center Portsmouth Department of Social Work.

2016. Development and Psychometric Evaluation of the Military Suicide Attitudes Questionnaire. Invited talk to Department of Psychiatry Grand Rounds.

EDITORIAL ACTIVITIES

Ad Hoc Reviewer: Military Psychology, Psychological Assessment

MEMBERSHIPS

Fellow, American Psychological Association (Military Psychology, Prescribing Psychology)
- Appointed to APA Taskforce to update Practice Guidelines for Prescribing Psychologists (2022)
- Elected Member-at-Large for Division 19 (Military Psychology) 2021
- American Psychology-Law Society (Division 41)
- Clinical Psychopharmacology (Division 55)

Member, Association for Behavioral and Cognitive Therapies

REFERENCES

Available upon request.

AFFIDAVIT

I, Lieutenant Commander Marcus VanSickle, Medical Service Corps, U.S. Navy, declare under penalty of perjury:

1. I am a forensic psychologist and was consulted by defense counsel to conduct risk assessment of Corporal Jesse Bopp related to his current General Court Martial.

2. I evaluated Cpl Bopp on July 17-18, 2024 and assessed his overall risk of recidivism as low. The following is a summary of the process, relevant assessments administered, and risk management recommendations in support of my overall opinion.

3. *Risk Assessment and Management*

Risk assessment is a probabilistic assessment of the chances of a person engaging in specific forms of behavior for specified timeframes. This differs from dangerousness assessments, wherein yes or no statements are made concerning whether an individual will recidivate. There is greater scientific support for probabilistic assessments of risk, as opposed to dichotomous statements about whether an individual will engage in specific forms of behavior in the future.

Risk assessment consists of evaluating factors that either elevate or decrease risk. These factors can be either *static*, which is characterized as a fixed and unchanging variable such as an individual's biological sex or *dynamic*, which is characterized as a fluid and modifiable variable such as the presence of active symptoms of mental illness. In addition to assessing factors that elevate or decrease risk, a thorough risk assessment must ordinarily specify strategies that may help minimize, contain, or mitigate risk; also known as risk management.

Static factors are used to anchor overall levels of risk as the preponderance of research relates to the study of static factors, consistently identifying them as superior markers to dynamic factors, especially when assessing long-term risk. Thus, dynamic factors are used to modify levels of risk that are anchored by the static factors (*slightly* up or down). Individual dynamic factors, if sufficiently salient, can highlight increased risk for violent offending, despite other evidence to the contrary.

Risk analysis may be broken down into the tasks of risk assessment, risk management, and risk communication. These tasks are linked, helping to inform one another. Risk assessment helps identify risk factors and offers a framework for generating estimates of the level of risk. Identification of risk factors and formulation of risk level thus help to guide relevant risk management strategies. These conclusions are then communicated utilizing quantitative descriptors, such as percentile ranks and frequency ranges, or qualitative descriptors such as the assignment of low, moderate, or high-risk levels.

The oldest approach to risk assessment is unstructured clinical judgment, where the evaluator selects risk factors perceived as related violence and then assesses the status of

those risk factors. This approach is dependent on the judgment of the evaluator and there can be a range of factors selected, and different weights placed on these factors. This strategy relies solely on clinical judgment to formulate overall risk level. A variation of the clinical judgment approach is the individualized or anamnestic approach. Here, the evaluator strives to ascertain what factors are associated in a given individual with a particular outcome, such as violence. The individualized approach is longitudinal and case specific.

Another approach to risk assessment is an actuarial assessment. In this approach, risk factors are scored in a weighted fashion and compared to known base rates, yielding probabilities of recidivism for specified periods. Various meta-analyses have demonstrated actuarial frameworks outperform a clinical judgment approach, in terms of predictive accuracy for violence risk.

Structured professional judgment (SPJ) is another approach to risk assessment involving the review of a set list of various empirically validated risk factors. Typically, each item is scored 0, 1, or 2, with 2 indicating the item is definitely applicable, 1 indicating the item is applicable to some degree, and 0 indicating the item does not apply. Summing the items and weighing their importance introduces clinical judgment into an assigned level of risk. Other SPJ tools have the evaluator rate the evaluee for the presence and relevance of various risk factors. In SPJ rating approaches, a final summary risk judgment is generated utilizing clinical judgment. Both actuarial and SPJ approaches employ the review of empirically validated risk factors for violence. Both approaches specify the variables to be considered and require them to be adequately operationalized, removing clinical judgment from the selection of items and ensuring responses may be reliable coded or rated.

In assessing Cpl Bopp, I utilized a multi-method approach, integrating actuarial and SPJ measures, along with consideration for individual factors of particular relevance to Cpl Bopp's case. Specifically, I utilized the Hare Psychopathy Checklist-Revised, the Violence Risk Appraisal Guide -Revised, and the HCR-20v3 in assessment of Cpl Bopp's risk of recidivism. Descriptions of each measure, Cpl Bopp's results, and interpretation are provided below.

3a. *Hare Psychopathy Checklist-Revised: 2nd Edition (PCL-R)*

Cpl Bopp was evaluated with the PCL-R to assess his degree of psychopathy. Psychopathy can be conceptualized as an enduring personality dimension or trait characterized by grandiosity, manipulative behavior, limited capacity to form bonds of affection, a history of impulsive and antisocial behavior, and interpersonal callousness. PCL-R scores tend to be relatively static and not subject to change significantly over time. The PCL-R has 20 items, with each item being scored on a scale of 0 to 2, with 0 meaning the item does not match the individual's long-term pattern of behavior, a rating of 1 indicating a partial match, and a rating of 2 indicating a good match. Scores below

20 are generally considered non-psychopathic. On this measure, Cpl Bopp is rated as having a score of 0 out of 40 points. This score is in the Very Low range for psychopathy. The PCL-R scores include four facets and may be broken into two factors: (1) related to selfish, callous use of others and narcissism, (2) related to an unstable antisocial lifestyle. He was not significantly elevated on either factor. His total score of 0 (T = 22) placed him in the 0.1 percentile relative to North American male offenders, reliably in the Very Low, non-psychopathic range. As psychopathy is a robust predictor of risk for violence, his PCL-R score is factored into an assessment of his future risk for violence.

Hare Psychopathy Checklist-Revised: 2nd Edition (PCL-R)	
Item	**Score**
1. Glibness/Superficial Charm	0
2. Grandiose Sense of Self Worth	0
3. Need for Stimulation/Proneness to Boredom	0
4. Pathological Lying	0
5. Conning/Manipulative	0
6. Lack of Remorse or Guilt	0
7. Shallow Affect	0
8. Callous/Lack of Empathy	0
9. Parasitic Lifestyle	0
10. Poor Behavioral Controls	0
11. Promiscuous Sexual Behavior	0
12. Early Behavioral Problems	0
13. Lack of Realistic, Long-Term Goals	0
14. Impulsivity	0
15. Irresponsibility	0

16. Failure to Accept Responsibility for Own Actions	0
17. Many Short-Term Marital Relationships	0
18. Juvenile Delinquency	0
19. Revocation of Conditional Release	0
20. Criminal Versatility	0
Total	**0**

3b. *Violence Risk Appraisal Guide – Revised (VRAG-R)*

The VRAG-R is an actuarial risk assessment tool that ranks adult men with respect to risk of violent recidivism as well as the frequency and severity of violent reoffending. The higher the VRAG-R score, the more likely the man is to commit an act of violence in the future, the sooner the violence is likely to occur, and the more severe the act may be. The VRAG-R consists of 12 predictors of violence recidivism. These include the Facet 4 score from the PCL-R as well as other risk factors. Cpl Bopp's scores on each item are listed in the table below.

A total score in the range of -23 to -17 on the VRAG-R places Cpl Bopp in Risk Category 2, out of a total of 9 bins, where lower number risk categories are associated with lower scores and lower overall risk of recidivism. Individuals in this range have an expected rate of violent recidivism of 12% over 5 years and 24% over 12 years. His total score of -23 places him in the 14th percentile relative to the normative sample.

Violence Risk Appraisal Guide – Revised (VRAG-R)		
Item	**Score Range**	**Score**
Lived with both biological parents to age 16	Yes = -2 No = +2	-2
Elementary school adjustment (up to age 14 or 8th grade)	No problem = -3 Slight problem = +1 Severe problem = +4	-3

History of alcohol or drug problems (Total points based on alcohol or drug use problems or involvement in current or prior offense)	<3 = -2 3 = 0 4 = +1 >4 + +4	-2
Marital status at time of index offense	Ever married = -1 Never married = +1	+1
Criminal non-violent history score (Charges or convictions of non-violent offense prior to index offense)	0 = -3 1-2 = -1 3-8 = +1 9-17 = +3 >18 = +5	-3
Failure on conditional release	No = -2 Yes = +4	-2
Age at index offense	>45 = -7 39-45 = -4 34-38 = -2 31-33 = -1 26-30 = +1 <26 = +2	+2
Criminal violent history score (Convictions/charges for violent offenses before index offenses)	0 = -2 1-4 =+2 5-18 = +3 >18 = +4	-2
Prior admissions to correctional institutions	0 = -2 1 = +2 2 = +3 3-4 = +4 >4 = +6	-2

Conduct disorder prior to age 15	0 = -2 1 = +2 2-4 = +4 >4 = +5	-2
Sex offending history	None = -2 Contact offenses exclusively against children = -1 Other contact offenses = +2 Contact offense against female age 14+ = +3	-2
Antisocial – Facet 4 of the PCL-R	0 = -6 >1 & <2.5 = -3 >2.5 & >3.5 = +2 >3.5 & >7.5 = +3 >7.5 = +6	-6
Total Score		-23

3c. *HCR-20^{v3} (Historical, Clinical, Risk)*

The HCR-20^{v3} is a structured professional judgment tool appropriate for use with male and female offenders at least 18 years of age. It involves the systematic review of 20 variables found to be empirically validated for violence risk, including 10 historical variables, 5 clinical variables, and 5 risk management variables. The measure associates a high-risk rating with "urgent need to develop a risk management plan," a moderate risk rating as indication a person "requires some special management strategies," and a low risk rating as indication a person "is not considered in need of any special intervention or supervision strategies." The authors emphasize the final risk level assigned is based on the clinical judgment of the assessor, noting salient factors (e.g., prominent homicidal ideation) may substantially raise risk. Likewise, salient mitigating factors (e.g., profound physical infirmity) could result in a low-risk rating, despite the presence of many other risk factors.

The instrument guidelines serve to structure a comprehensive assessment of violent risk follow a 7-step process, including: (1) gathering and documenting information, (2) determining the presence of risk factors, (3) determining the risk factors relevant to future risk management strategies, (4) developing a formulation of violence risk, (5) identifying potential risk scenarios, (6) identifying risk management strategies, and (7) summary judgments.

Risk factors are coded as being definitely present (Y), partially or possibly present (?), or absent (N). The coding framework for historical factors is lifetime. The timeframe for clinical factors is the recent past (weeks to months preceding the evaluation). The timeframe for risk management items is weeks to months following the evaluation (capped at one year). Relevance for future risk management strategies for each risk factor is coded as high, moderate, and low. The chart below integrates the results of steps two and three of Cpl Bopp's HCR-20v3. The remaining steps are blended in his Risk Summary and Risk Management Plan below.

Consideration of all factors from the HCR-20v3 places Cpl Bopp at a low risk of violent recidivism under a reasonable risk management plan. Areas that may potentially impact his risk level include his ability to manage stress in a healthy manner and continued abstinence from alcohol and other substances.

Cpl Bopp's historical risk factors associated with an increased risk for violence include a history of previous violence (the instant offense), poor stress management, and history of alcohol abuse. Cpl Bopp described a blended history of stress management, ranging from adaptive (e.g., exercise, counseling, and peer support) to maladaptive (increased alcohol use). Although he is presently abstinent from alcohol, it would be important for him to remain engaged in abstinence-focused alcohol programs, to decrease likelihood of reliance on maladaptive coping strategies in the future.

With regard to clinical risk factors, Cpl Bopp does not have a history of mental illness or current psychiatric diagnosis. He has previously appropriately used counseling for stress

management, in the context of a deployment, and would be encouraged to continue to utilize mental health resources in the future.

In consideration of future risk, Cpl Bopp has access to continued mental health treatment as needed. He has demonstrated sustained abstinence from alcohol and other substances since his placement in pre-trial confinement and has remained at the top of the brig incentive structure for exemplary behavior. If released, Cpl Bopp has the support of both parents and his sibling, and he intends to reside with him while re-stabilizing. Cpl Bopp indicated a desire to continue in his current profession, if possible, or to return to working in carpentry at his pre-military place of employment. Cpl Bopp further expressed a desire to engage in higher education to maintain field-relevance until released.

HCR-20^{v3} (Historical, Clinical, Risk)	
Historical Factors	***Coding***
1. Violence- Adult	Presence: Yes Relevance: High
2. Other Antisocial Behavior	Presence: No Relevance: Low
3. Relationships	Presence: No Relevance: Low
4. Employment	Presence: No Relevance: Low
5. Substance Use	Presence: Yes Relevance: High
6. Major Mental Disorder	Presence: No Relevance: Low
7. Personality Disorder	Presence: No Relevance: Low
8. Traumatic Experiences	Presence: No Relevance: Low
9. Violent Attitudes	Presence: No Relevance: Low
10. Treatment or Supervision Response	Presence: No Relevance: Low
Clinical Factors	***Coding***
1. Insight: Mental Illness, Violence Risk, Need for Treatment	Presence: No Relevance: Low
2. Violent Ideation or Intent	Presence: No Relevance: Low
3. Symptoms of Major Mental Illness	Presence: No Relevance: Low
4. Instability: Affective, Behavioral, Cognitive	Presence: No Relevance: Low

5. Treatment or Supervision Response: Compliance & Responsiveness	Presence: No Relevance: Low
Risk Management Factors	***Coding***
1. Professional Services and Plans	Presence: No Relevance: Low
2. Living Situation	Presence: No Relevance: Low
3. Personal Support	Presence: No Relevance: Low
4. Treatment or Supervision Response	Presence: No Relevance: Low
5. Stress or Coping	Presence: Yes Relevance: High

3d. *Summary and Recidivism Risk Management Plan*

Integrating these assessments of psychopathy and violence risk, from actuarial and structured professional judgment approaches, places Cpl Bopp's overall risk of violent recidivism very low. From an actuarial perspective, his risk profile is in the 14th percentile – a lower risk than 86% of the normative sample. Consideration of risk from the SPJ approach also generates a very low risk profile, given the weight of protective factors in contrast to few identified risk factors. This level of risk can be further contained or mitigated by the use of certain risk management procedures.

An effective risk management plan is aimed at identifying, monitoring, and containing risk factors. It offers appropriate countermeasures for risk and describes risk mitigation strategies. A number of factors make Cpl Bopp a relatively good candidate for continued treatment or counseling, including his current treatment abstinence from alcohol, his history of positive response to treatment, and his history of stable occupational and social functioning. Cpl Bopp would potentially benefit from continued engagement in alcohol abuse counseling with the addition of regular psychotherapy focused on stress management, balancing treatment and occupational requirements, and processing trauma related to the instant offense. Awareness and improvement of these factors would serve to substantially reduce his already low risk of future violent behavior.

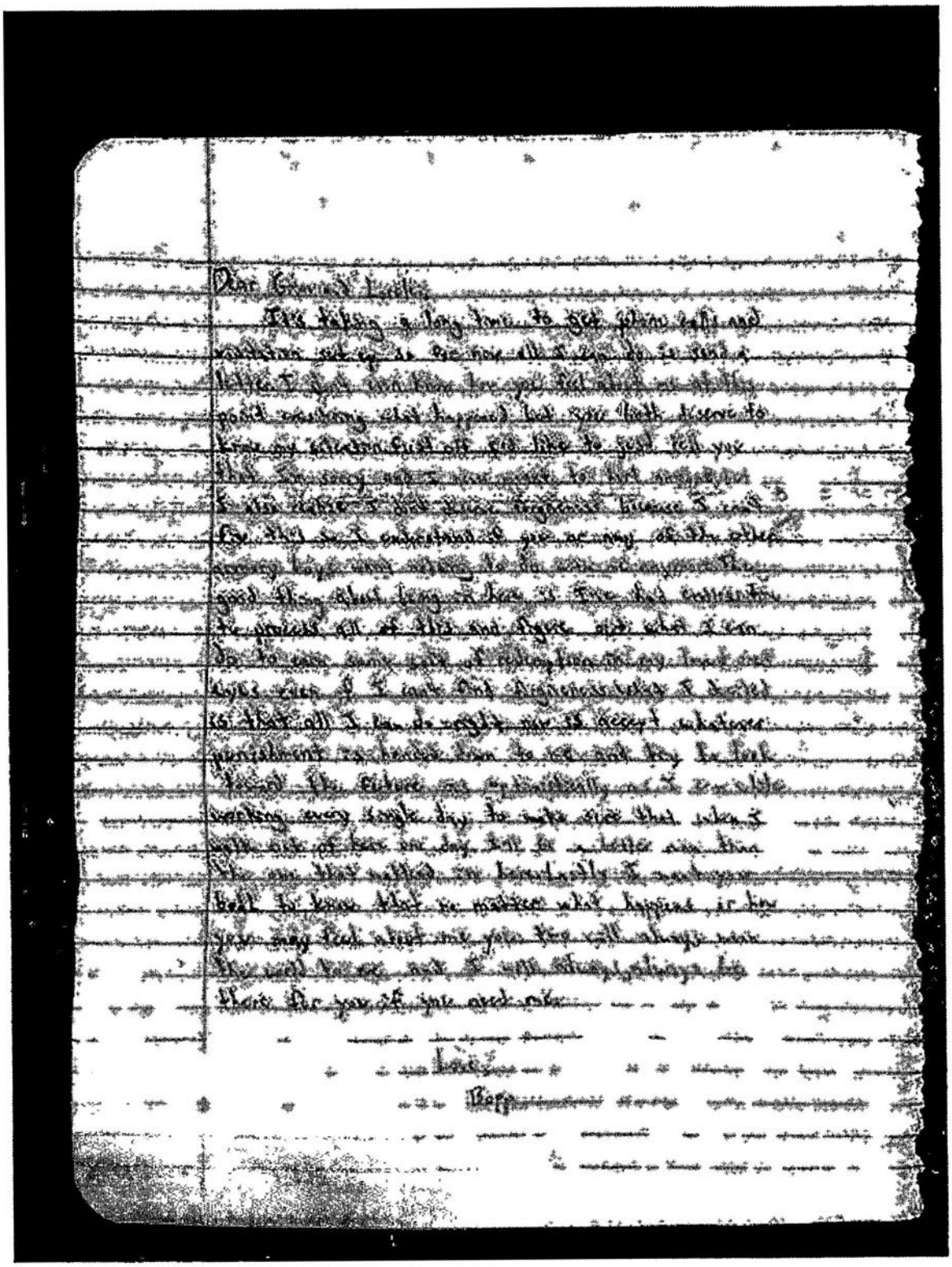
4. *Limitations of Opinions and Data Interpretation*

This report is based on a large amount of information obtained from multiple sources. I believe that all information contained herein is accurate and provides adequate basis to form both clinical and forensic opinions. However, if any information is substantially inaccurate, I would appreciate it if this were immediately called to my attention. In addition, should I learn of any additional new information which casts substantial doubt upon either my clinical or forensic opinions, I will immediately notify Defense Counsel and provide an addendum to this statement.

5. I can be reached at (443) 654-5824 or mvansic@nsa.gov for additional information.

[redacted]

M. R. VanSickle PhD, ABPP, APMP
LCDR, MSC, USN
Forensic and Medical Psychologist
Marine Forces Cyberspace Command



Dear Grand Lucile,

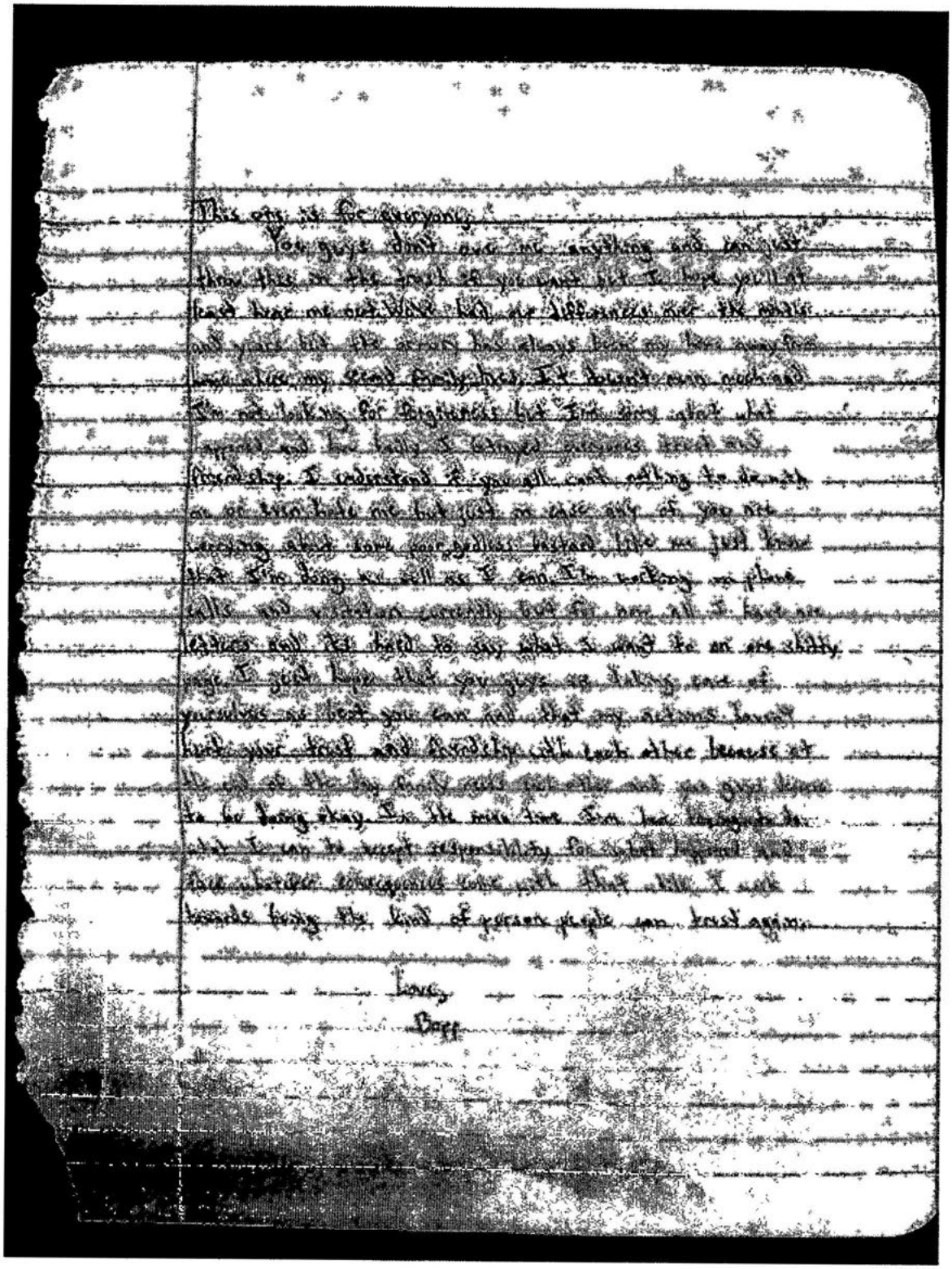
It's taking a long time to get phone calls and visitation set up so for now all I can do is send a letter. I don't even know how you feel about me at this point considering what happened but you both deserve to know my situation first off and like to just tell you that I'm sorry and I never meant to hurt anyone but I also realize I don't deserve forgiveness because I can't fix this so I understand if you or any of the other armory boys want nothing to do with me anymore. The good thing about being in here is I've had enough time to process all of this and figure out what I can do to earn some sort of redemption in my loved ones eyes even if I can't find forgiveness what I decided is that all I can do right now is accept whatever punishment is handed down to me and try to look toward the future as optimistically as I can while working every single day to make sure that when I walk out of here one day I'll be a better man than the one that walked in. Hereafter I want you both to know that no matter what happens or how you may feel about me you two will always mean the world to me and I will always always be there for you if you need me.

Love,

Bopp

DE C ~~F10~~

Pg 1 of 2



This one is for everyone,

You guys don't owe me anything and can just throw this in the trash if you want but I hope you'll at least hear me out. We've had our differences over the months and years but the armory has always been my home away from home where my second family lives. It doesn't mean much and I'm not looking for forgiveness but I'm sorry about what happened and how badly I betrayed everyone's trust and friendship. I understand if you all want nothing to do with me or even hate me but just in case any of you are worrying about some poor godless bastard like me just know that I'm doing as well as I can. I'm working on phone calls and visitation currently but for now all I have are letters and it's hard to say what I want to on one shitty page. I just hope that you guys are taking care of yourselves as best you can and that my actions haven't hurt your trust and friendship with each other because at the end of the day family needs each other and you guys deserve to be doing okay. In the mean time I'm here trying to do what I can to accept responsibility for what happened and to face whatever consequences come with that while I work towards being the kind of person people can trust again.

Love,

Bopp

DE C

Pg 2 of 2

CHAPTER 2
Physical Plants and Major Equipment

Section 1. Classifications – Physical Plants

2101. Functional Types Classification

1. Military Correctional Facility (MCF)

a. A MCF is a place of confinement established as an activity or at a local command and designated by the SECNAV as a naval place of confinement. MCFs will not be used to support a detention capability; a DD form 2707 Confinement Order shall serve as the legal basis for placement of a service member in a MCF. MCFs are further classified as follows:

(1) Level I MCF. Authorized for pretrial and post-trial confinement. The maximum period of post-trial confinement provided by any level I MCF may not exceed adjudged sentences greater than one year.

(2) Level II MCF. Authorized for pretrial and post-trial confinement. The maximum period of post-trial confinement provided by any level II MCF may not exceed adjudged sentences greater than 10 years.

(3) Level III MCF. Authorized for post-trial confinement of members serving adjudged sentences of greater than 10 years.

b. BUPERS-00D) and Deputy Commandant of the Marine Corps (Plans, Policies and Operations (DC PPO)) may further limit the confinement capabilities of their MCFs as they deem necessary.

2. Detention Facility. Personnel may be detained in a detention space or a holding cell, per chapter 12 of this manual. Any request for establishment or disestablishment of a detention facility must be routed via the chain of command and approved in advance by BUPERS-00D or DC PPO

a. Detention Space. Detention spaces are authorized for use by installation security or law enforcement agencies requiring the capability to temporarily detain individuals suspected of military or civil offenses while awaiting transfer

DE 0 510
Pg 1 of 4

MILPERSMAN 1640-030

TYPES OF CORRECTIONAL FACILITIES AND CONFINEMENT PARAMETERS

Responsible Office	NAVPERSCOM (PERS-00D)	Phone: DSN COM FAX	882-4444 (901) 874-4444 882-2626

NAVPERSCOM CUSTOMER SERVICE CENTER	Phone: Toll Free	1-866-U ASK NPC

References	(a) SECNAVINST 1640.9C (b) BUPERSINST 1640.22 (c) DoD Instruction 1325.07 of 11 Mar 2013 (d) OUSD memo for Service Correction Chiefs of 31 Jan 2013

1. **Types of Correctional Facilities and Confinement Parameters**

a. **Afloat Brig** - Authorized for confinement of personnel attached to or embarked in a ship and may be used for periods of pretrial and post-trial confinement of up to 30 days (see reference (a), article 2101.2).

b. **Detention Facility (DETFAC)** - Authorized for short-term detention (see reference (a), article 2101.3).

c. **Pretrial Confinement Facility (PCF)** - A "Level I" confinement facility authorized for pretrial and post-trial confinement for members serving an "adjusted sentence" (court-ordered sentence minus projected administrative credits (e.g., judicial credit, earned time, international date line, and or good conduct time, etc.) of 30 days or less. See reference (b).

d. **Navy Level I Confinement Facility** - Authorized for pretrial and post-trial confinement of members serving up to, but not exceeding 1 year "adjusted sentence" (see reference (c)). Deviations must be authorized by Navy Personnel Command (NAVPERSCOM), Corrections and Program Office (PERS-00D).

e. **Navy Level II Confinement Facility** - Authorized for pretrial and post-trial confinement of members serving adjusted

sentences not to exceed 10 years (see reference (d)). Any deviations must be authorized by NAVPERSCOM (PERS-00D).

f. **Level III Confinement Facility** - Authorized for pretrial and post-trial confinement of members serving "adjusted sentences" of greater than 10 years (see reference (d)).

2. **Locations**. Below are the locations of Navy detention facilities, afloat and shore correctional facilities, depicting type, Department of Defense designation (where applicable), and gender capabilities:

a. **DETFAC (see note 1).**

Naval Air Station (NAS) Pensacola, FL
Naval Station (NAVSTA) Newport, RI
NAVSTA Rota, Spain
NAVSTA Guantanamo Bay, Cuba
Fleet Activities (FLEACT) Yokosuka, Japan
FLEACT Sasebo, Japan
Naval Support Activity, Naples, Italy

b. **Afloat Brigs (nuclear aircraft carriers (CVNs), amphibious assault ships (landing helicopter assault ships (LHAs)), and landing helicopter dock ships (LHDs)) (see note 1).**

PACIFIC	ATLANTIC
USS NIMITZ (CVN 68)	USS DWIGHT D EISENHOWER (CVN 69)
USS CARL VINSON (CVN 70)	USS ABRAHAM LINCOLN (CVN 72)
USS THEODORE ROOSEVELT (CVN 71)	USS GEORGE WASHINGTON (CVN 73)
USS JOHN C STENNIS (CVN 74)	USS HARRY S TRUMAN (CVN 75)
USS RONALD REAGAN (CVN 76)	USS GEORGE H W BUSH (CVN 77)
USS AMERICA (LHA 6)	USS GERALD R FORD (CVN 78)
USS ESSEX (LHD 2)	USS KEARSARGE (LHD 3)
USS BOXER (LHD 4)	USS BATAAN (LHD 5)
USS BONHOMME RICHARD (LHD 6)	USS IWO JIMA (LHD 7)
USS MAKIN ISLAND (LHD 8)	
USS WASP (LHD 1)	

c. **Shore Correctional Facilities.**

(1) **PCFs.**

PCF	NAS Jacksonville, FL **(see note 2)**
PCF	FLEACT Yokosuka, Japan

(2) **Naval Consolidated Brig (NAVCONBRIG) Detachment (DET) (Level I).**

Brig	NAVCONBRIG Miramar DET Pearl Harbor, HI **(see Note 2)**

(3) **NAVCONBRIGs (Level II).**

NAVCONBRIG	Charleston, SC
NAVCONBRIG	Miramar, CA **(see note 2)**
NAVCONBRIG	Chesapeake, VA **(see note 2)**

(4) **NAVCONBRIG (Level III).**

NAVCONBRIG	Miramar, CA **(female only)**

d. **Other Confinement Facilities.**

U.S. Army Confinement Facility	Sembach, Germany **(see note 2)**
U.S. Disciplinary Barracks	Fort Leavenworth, KS (Level III)
Mid-West Joint Regional Correctional Facility	Fort Leavenworth, KS (Level II)
Northwest Joint Regional Correctional Facility	Joint Base Lewis-McChord, WA (Level II) **(see note 3)**
U.S. Regional Corrections Facility-Korea	Camp Humphreys, South Korea (Level I)

e. **Civilian Facilities (see reference (a), article 7104.4).**

Federal Bureau of Prisons (Level III)

Notes
1. Some afloat brigs and detention facilities are authorized and designated to support confinement and or detention of females. Contact the command for current status.
2. Female pretrial and post-trial confinement capable.
3. Female confinement capable for pretrial only.

Prescribed by: DoDI 1325.07

CUI (when filled in)

PRISONER SUMMARY DATA	REPORT DATE (YYYYMMDD) 20241213

PRIVACY ADVISORY

Disclosure of this information is voluntary and will be used to record information about individual prisoners upon confinement and progress in confinement. For additional information, see System of Records Notice, A0190-47 DAPM-ACC, "Army Corrections System and Parole Board Records," NM01650-1, "Individual Confinement Records," and F031 AF SF A, "Correction and Rehabilitation Records" published at https://dpcld.defense.gov/Privacy/SORNs/. When completed, this form contains personally identifiable information and is protected by the Privacy Act of 1974, as amended.

1. NAME (Last, First, Middle)	2. REGISTRATION NUMBER
Bopp, Jesse T.	00160366BJ

3. CONTENTS: ADMISSION SUMMARY (Complete 4, 5, and 6) ☐ PROGRESS SUMMARY (Complete 6, 7, and 8) ☒

4. CURRENT OFFENSE
   a. OFFICIAL INFORMATION
   b. PRISONER'S VERSION

5. PRIOR OFFENSE
   a. CIVIL
   b. MILITARY

6. EVALUATION AND PLANNING
   a. IMPRESSIONS BASED ON PERSONAL HISTORY
   b. CURRENT MENTAL HEALTH EVALUATION

7. ASSIGNMENT PROGRAM
   a. CURRENT CUSTODY
   b. CURRENT QUARTERS
   c. CURRENT TRAINING/PROGRAMS
   d. CURRENT WORK ASSIGNMENTS
   e. SPECIAL TREATMENT PROGRAMS
   f. PLANNED DISPOSITION

8. CONFINEMENT PROGRESS
   a. NEW INFORMATION
   b. PROGRESS IN CORRECTIONAL FACILITY
   c. SUBSEQUENT MENTAL HEALTH EVALUATION
   d. PAROLE OFFICER EVALUATION

6. EVALUATION AND PLANNING

A. Impressions Based on Personal History: He is a 24-year-old male, older than the average age compared to the rest of the prisoner population. He has a calm and considerate demeanor. Furthermore, he is quite and often keeps to himself. SNP is known for following orders and considered an above average prisoner.

B. Current Mental Health Evaluation: SNP is not currently being seen by Mental Health.

7. ASSIGNMENT PROGRAM

A. Current Custody: Medium In

B. Current Quarters:General Population Housing Unit

C. Current Training/Programs: Since confinement he has attended the following programs Life skills, Anger Management, Finacial Management.

D. Current Work Assignment: He has been assigned to Interior Work and Laundry Worker.

E. Special Treatment Programs: N/A

F. Planned Disposition: He plans to continue participation in offered programs and make use of available counseling services while awaiting his court process.

8. CONFINEMENT PROCESS

A. New Information: SNP has been adjusting to confinement well following orders and abiding by the prisoner rules and regulations. SNP has also abtainded Incentive Level IV which is awarded only to our model prisoners.

B. Progress in Correctional Facility: SNP has received a total of (60) Work and Training Reports (WTR) during his confinement, consisting of (0) Outstanding WTRs, (0) Above Average WTRs, (56) Average WTRs, (4) Below Average WTRs and (0) Unsatisfactory WTRs. SNP received (0). Furthermore, SNP has received no Disciplinary or Observation Reports. SNP has recived (5) Positive Counselings with 3 Negative Counselings for minor infractions. SNP displays the upmost respect for Brig staff and has no proplem volunteering for the needs of the brig.

DE E EH0

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CORRECTIONAL FACILITY CONTINUATION SHEET	REPORT DATE (YYYYMMDD) 20241213

PRIVACY ADVISORY

Disclosure of this information is voluntary and will be used to supplement information contained on other correctional forms. For additional information, see System of Records Notice, A0190-47 DAPM-ACC, "Army Corrections System and Parole Board Records," NM01650-1, "Individual Confinement Records," and F031 AF SF A, "Correction and Rehabilitation Records" published at https://dpcld.defense.gov/Privacy/SORNs/. When completed, this form contains personally identifiable information and is protected by the Privacy Act of 1974, as amended.

1. TITLE OF FORM	2. DD FORM
Progress Summary	2715-2
3. PRISONER NAME *(Last, First, Middle)*	**4. REGISTRATION NUMBER**
Bopp, Jesse T.	00160366BJ

C. Subsequent Mental Health Evaluation: No evalutaion given at this time.

D. Parole Officer Evaluation: N/A

[redacted]

Cpl Moon, Matthew L.
Correctional Counselor

DE E

Pg 2 of 2

INSTRUCTIONS FOR ASSEMBLING THE CERTIFIED RECORD OF TRIAL

Arrange and bind the record of trial with allied papers in the sequence indicated below. The court reporter is responsible for certifying the record of trial prior to transmittal for appellate review, in accordance with R.C.M. 1112 and JAG/CNLSCINST 5813.1G.

1. Pages 1 (Cover page) and 2 (Chronology Sheet) of DD Form 490 (enclosure 7).

2. Court reporter certification of Record of Trial (enclosure 8).

3. Military Judge verification of Record of Trial (enclosure 8).

4. DD Form 490 (pages 3-6 and any continuation pages if needed) (enclosure 7).

5. Completed Post-Trial Checklist from JAG/CNLSCINST 5814.1G (enclosure 2).

6. Completed Convening Authority's Action Checklist (enclosure 4).

7. Post-Trial Documents.

a. Certificates/Proof of Service of the Certified Record of Trial to the accused and victim, if applicable (enclosure 7).

b. Convening Authority's Action and Entry of Judgment (enclosure 6).

c. Any requests for copies of the court-martial record pursuant to R.C.M. 1106 or 1106A (attach written requests, and any certificates/proof of service, but do not attach the victim's post-trial rights advisement or DD Form 2704).

d. Matters submitted by the accused and/or victim under R.C.M. 1106 or 1106A, or any written waiver of the right to submit such matters. Include all responses to requests here as well.

e. Any deferment request and the action on it (including any request to waive automatic forfeitures under Article 58b).

f. Conditions of suspension and proof of service on probationer under R.C.M. 1107, if any.

g. All clemency recommendations by members or military judge, if any.

h. Statement of Trial Results (enclosure 1).

i. Crime Reporting Information.

j. Accused's request for appellate defense counsel, or waiver/withdrawal of appellate review under R.C.M. 1115, if applicable.

k. All transfer orders, confinement orders, and excess leave orders.

l. Briefs of counsel submitted after trial, if any.

8. Preliminary Hearing.

a. DD Form 457, Preliminary Hearing Officer's Report, pursuant to Article 32, if such hearing was conducted, followed by any other allied papers that accompanied the charges when referred for trial (including any matters submitted under R.C.M. 405(l), unless included elsewhere in the record of trial).*

b. Waiver of Article 32 Hearing (if applicable).

9. Pre-Trial Allied Papers.

a. Convening Order and all amending convening orders.

b. DD Form 458, Charge Sheet (unless included at the point of arraignment in the transcript).

INSTRUCTIONS FOR ASSEMBLING THE CERTIFIED RECORD OF TRIAL

i. Any other information that could be used to identify a specific person other than the accused.

*If the report of preliminary hearing or record of trial contains exhibits, proceedings, or other materials ordered sealed by the preliminary hearing officer or military judge, counsel for the Government, the court reporter, or trial counsel shall cause such materials to be sealed to prevent unauthorized examination or disclosure, pursuant to R.C.M. 1113. Sealed material shall be properly marked, individually placed in separate envelopes with a copy of the preliminary hearing officer or military judge sealing order affixed to it, and inserted at the appropriate place in the record of trial. Do not duplicate sealed material to include it in any copy of the record of trial. Instead, insert a copy of the sealing order in lieu of any sealed material, in any copies of the record of trial.

DIVIDERS ARE NOT NECESSARY TO SEPARATE EACH SECTION. IF USED, THEY CAN BE PAPER RATHER THAN CARD STOCK. IF A PARTICULAR COMPONENT IS NOT APPLICABLE IN THE RECORD OF TRIAL, SUCH AS AN ARTICLE 32 HEARING, EXHIBITS NOT ADMITTED, POST-TRIAL PROCEEDINGS AND VACATION HEARINGS, DO NOT INSERT A DIVIDER OR PLACEHOLDER.

FRONT AND BACK COVER MUST BE ON BLUE CARDS STOCK AND LABELED WITH GUM LABELS.

Binding. Each volume of a record of trial should be no more than 1.5 inches thick and bound at the top with metal or plastic fasteners. **DO NOT** interlace or "piggy-back" prong fasteners to create an oversized volume. **DO NOT** place hole punches where it covers up the evidence or language in the transcript. When it becomes necessary to assemble the record of trial in more than one volume, the volumes will be numbered consecutively, on the front cover, as illustrated below:

Volume 1 of 4 (Pages 1-250)
Volume 2 of 4 (Pages 251-400)
Volume 3 of 4 (Pages 401-652)
Volume 4 of 4 (Pages 653-901 and Exhibits)

Make the first volume of a multi-volume record an inch thick or smaller to allow for inclusion of post-trial documents. Limit subsequent volumes to 1.5 inches, unless dividing them requires assembling an additional volume smaller than a half inch.

Label the upper right-hand corner or the Preparation and Certification of Record of Trial Form (enclosure (8)) to reflect which copy it is, i.e., "**ORIGINAL**," "**ACCUSED**," "**REVIEW**" etc.

Volume 4 of Volumes 5

CERTIFIED RECORD OF TRIAL

(and accompanying papers)

of

Bopp	Jesse	T	[redacted]	Cpl
(Last Name)	*(First Name)*	*MI*	*(DoD ID No.)*	*(Rank)*

2d Bn, 6th MarRegt, 2d MarDiv	USMC	Camp Lejeune, NC
(Unit/Command Name)	*(Branch of Service)*	*(Location)*

By

General Court-Martial (GCM) COURT-MARTIAL

(GCM, SPCM, or SCM)

Convened by Commanding General

(Title of Convening Authority)

2d Marine Division

(Unit/Command of Convening Authority)

Tried at

Camp Lejeune, NC On 30 January, 5 March, 17 June, 5 September 2024, and 6 and 7 January 2025

(Place or Places of Trial) *(Date or Dates of Trial)*

Companion and other cases None.

(Rank, Name, DOD ID No., (if applicable), or enter "None")

This volume contains
DEs OA F-H, AEs I-XXXVI

Defense Exhibits Admitted



DE F F1D

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High school study trip to Guatemala and Belize 2017

High school study trip to Guatemala and Belize 2017

DE F

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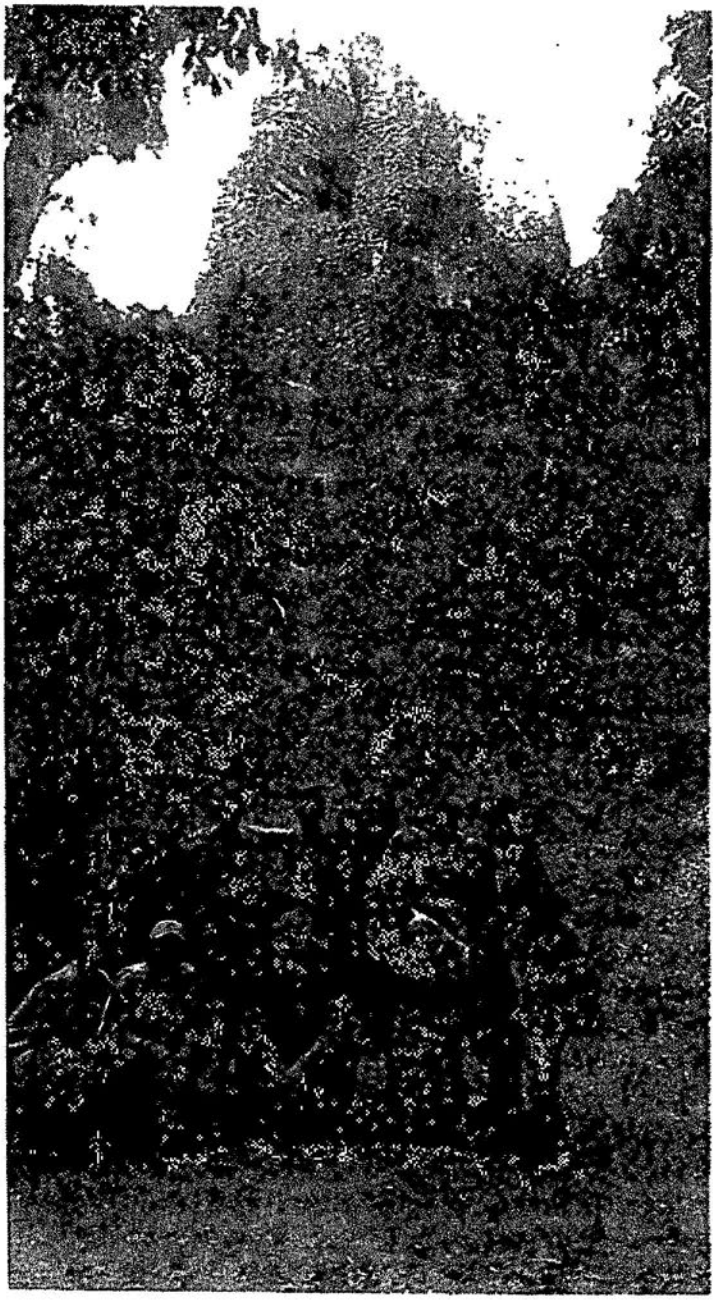

High school study trip to Guatemala and Belize 2017



High school study trip to Guatemala and Belize 2017



Boot camp graduation 2019



2019

DE F

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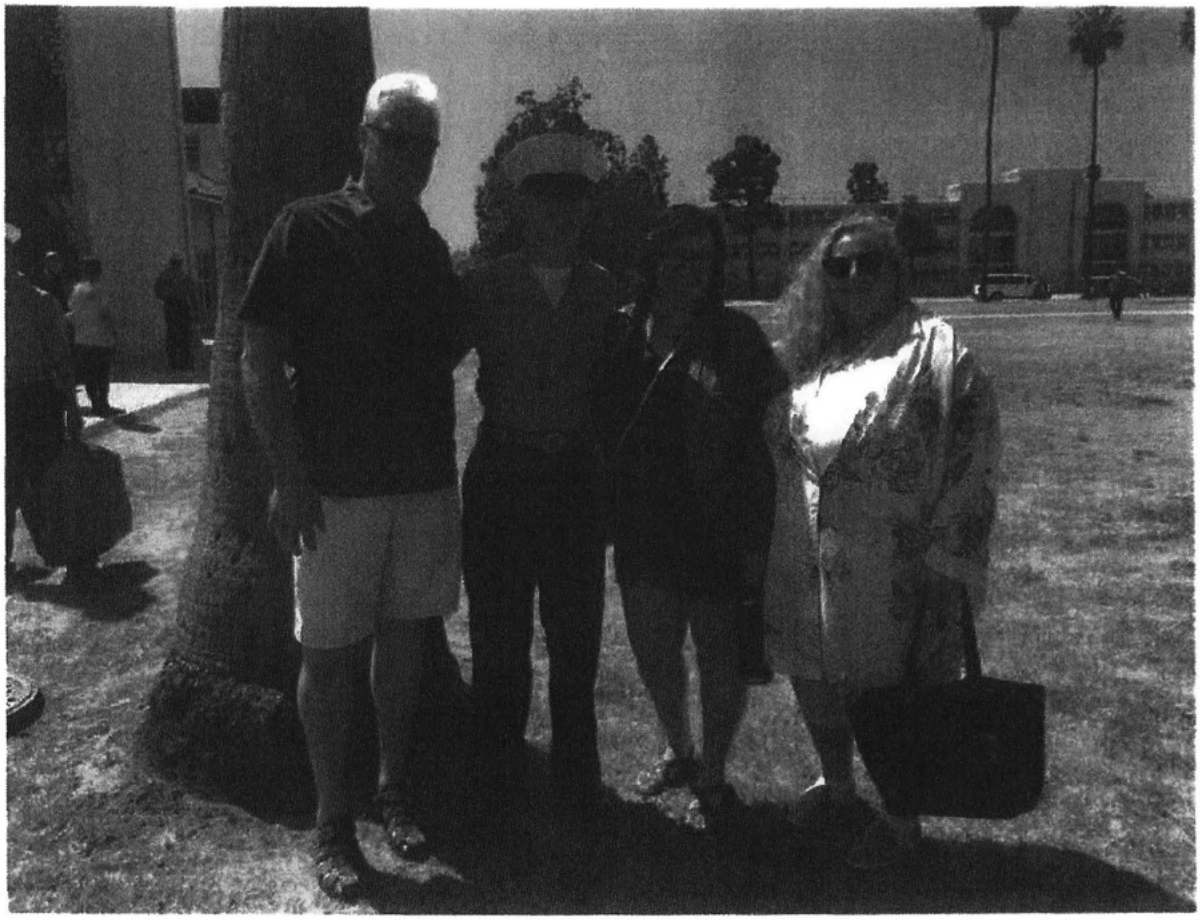
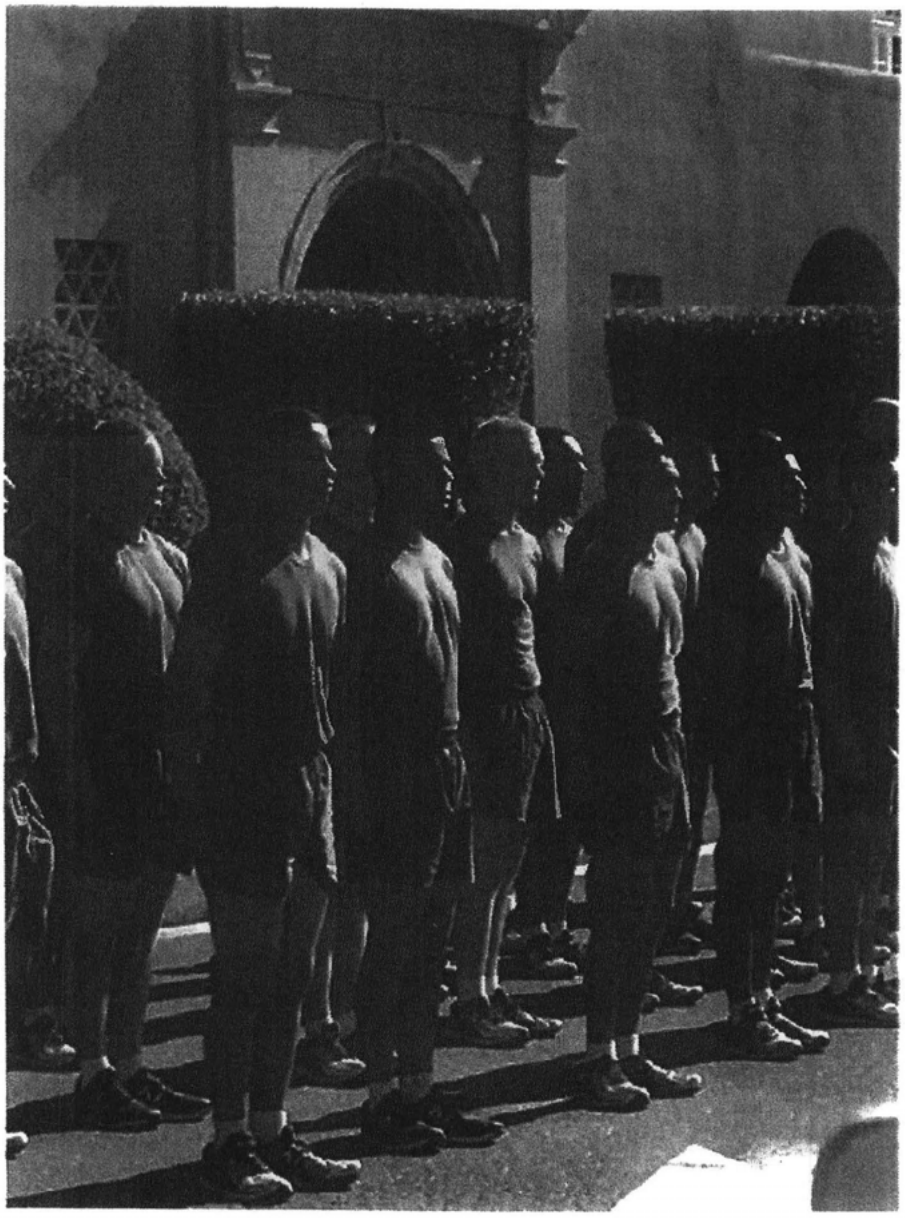
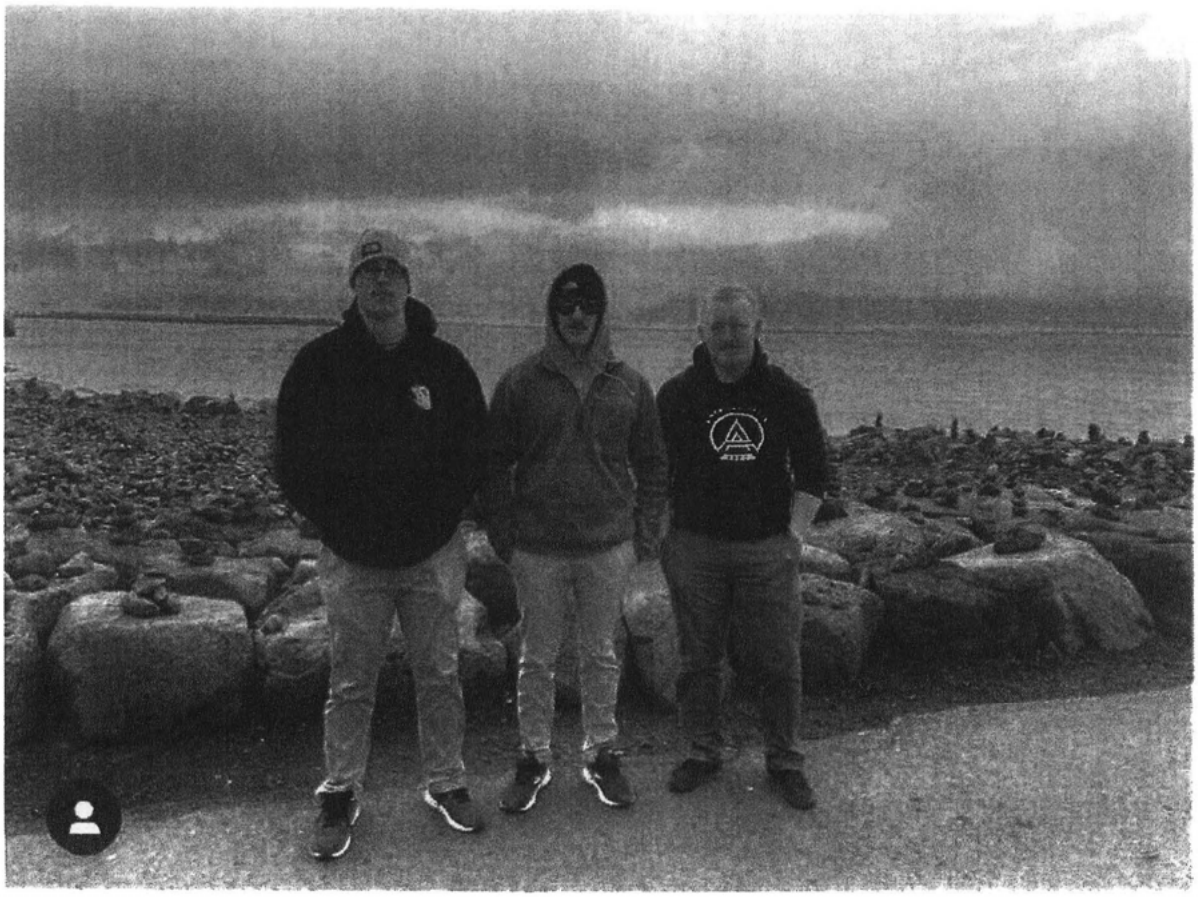
Boot camp graduation 2019



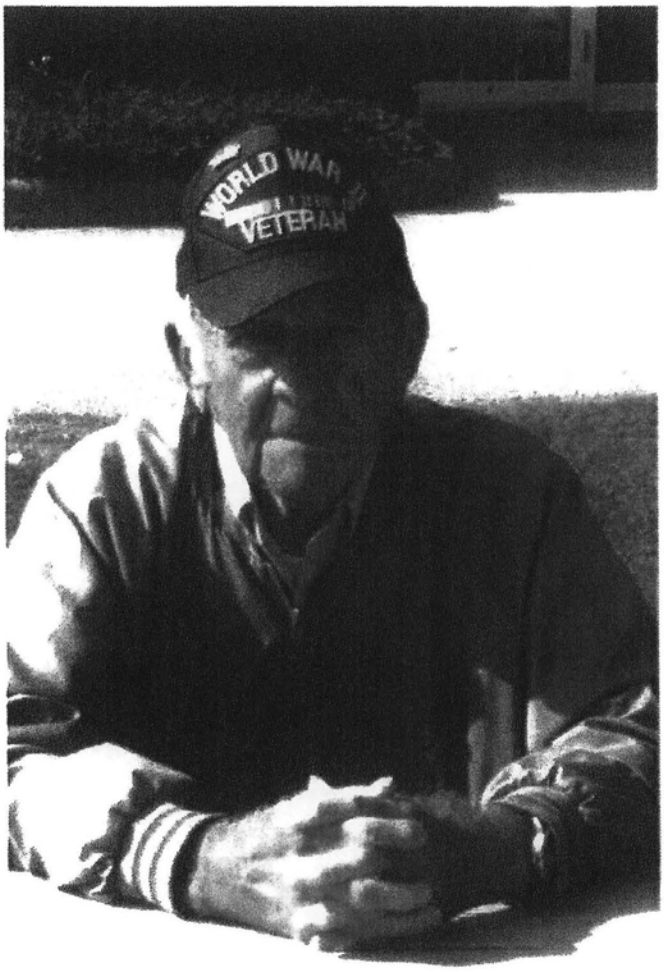
Boot camp graduation 2019



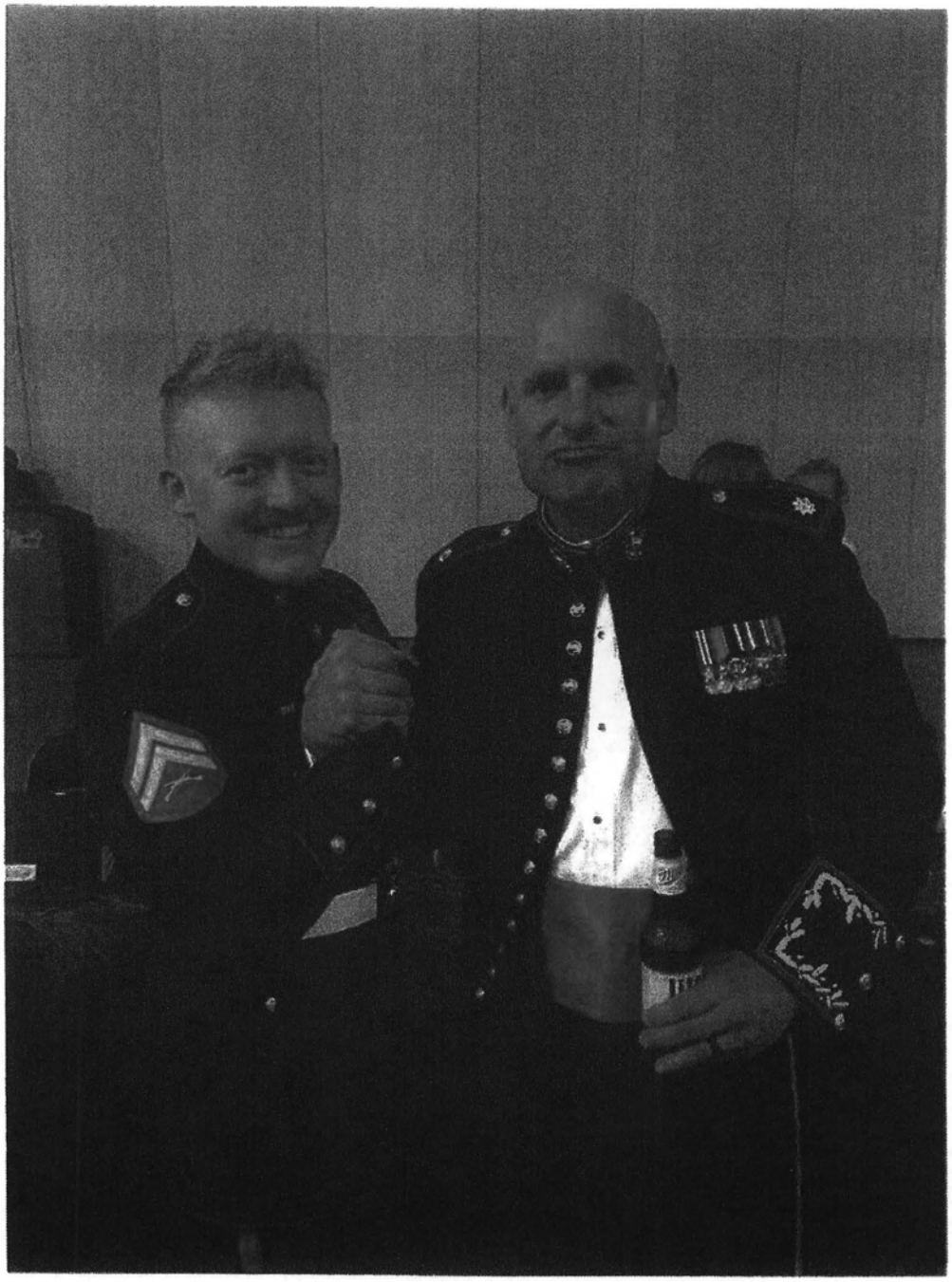




Deployment



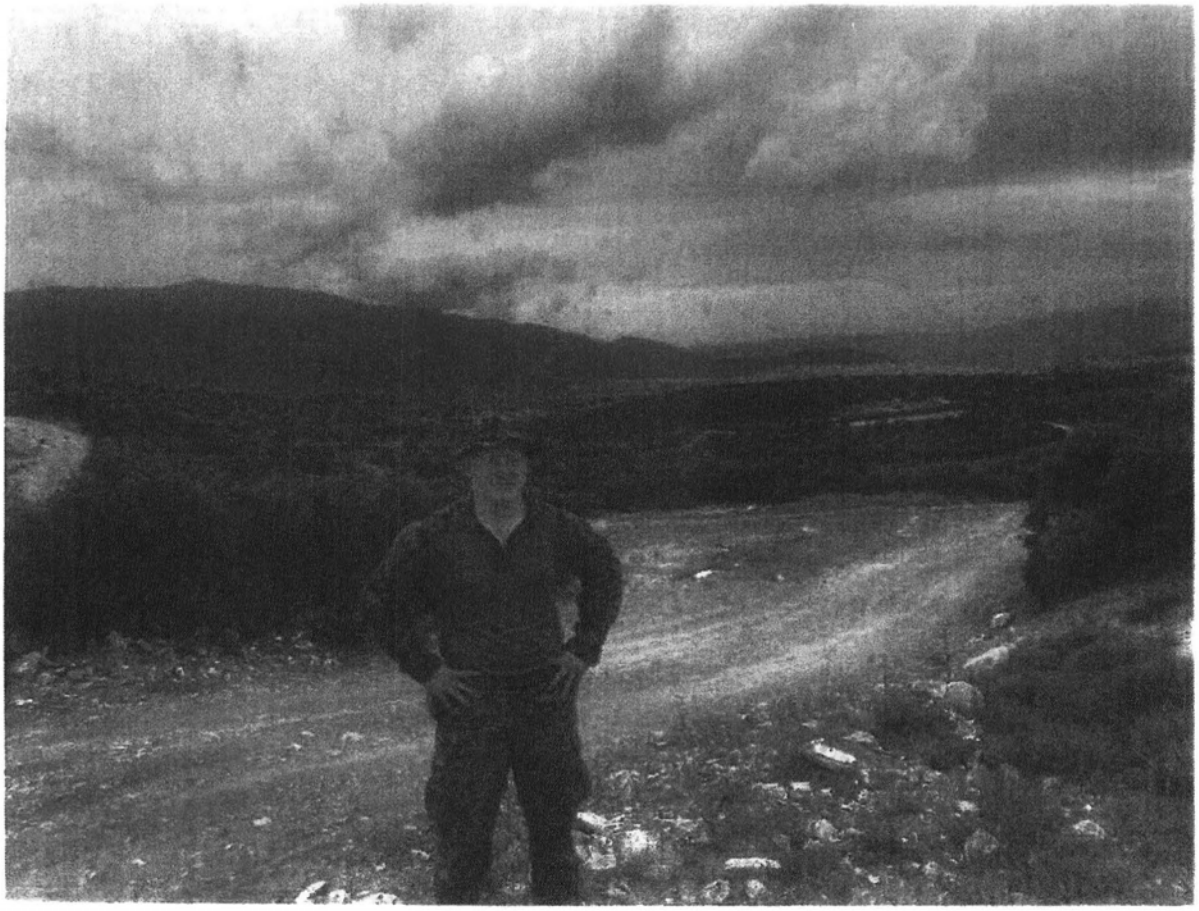
Paternal grandfather 2013



Marine Corps Ball 2022



Cpl Bopp with Tom (dad) and Maureen (mom) before leaving for boot camp



Deployment 2022



Cpl Bopp and Delany (sister), Christmas 2019

DE F

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From: **Travers SSgt Devon J** <devon.j.travers.mil@usmc.mil>
Date: Wed, Dec 11, 2024 at 2:31 PM
Subject: RE: [Non-DoD Source] Cpl Bopp
To: E Kopka [redacted]

Sir,

My name is SSgt. Devon J. Travers. I have been Married since September of 2018, and have a 5-year-old daughter. I joined the Marine Corps on July 20th, 2015. After completing my entry level training, I served as a 2111 small arms repair technician at The Basic School abord Quantico VA from April 2016 until March 2019. From there I served as the Regimental Ordnance Chief for the 6th Marine Regiment abord Camp Lejeune NC until August 2021. After that I served as a formal school instructor for my MOS school house abord Fort Gregg-Addams VA until July 2024. I am actively serving as the 3rd Battalion 6th Marines Armory Chief abord Camp Lejeune NC.

During my time as the Regimental Ordnance chief of Headquarters company 6th Marines, I met Jessie Bopp. He came to me fresh out of his schoolhouse and was highly motivated. He was always willing to learn and was consistently providing quality work. I never had any discipline issues with him while under my charge. Bopp was always one of my top performers and one of my hardest working Marines. Through his initiative and sound judgement, he served as an example for others and a model Marine. Bopp would always be the first to volunteer for any new task and would push others to better themselves.

I have been informed and understand that Jessie Bopp has accepted responsibility for violations of Articles 119 and 92, UCMJ, at a general court-martial. It is my opinion that, provided with the proper resources, Bopp has the capacity to Rehabilitate, and overcome this moving forward. I also have no doubt in my mind that he feels the upmost remorse for his actions.

Respectfully,

SSgt Travers, Devon J.
V36 Armory chief
Infantry weapons repair technician / 2111
Martial arts instructor / 0916
Formal school instructor / 0951
Combat Marksmanship Trainer / 0931
Cell: [redacted]

DE G EID
Pg 1 of 45

My name is Sergeant Joshua Grimison. I am an electro-optics repairer in the Marine Corps and have been serving for over five years. In those five years I spent just under four at second battalion sixth Marine regiment which included a deployment on the twenty second Marine Expeditionary Unit. Austin Schwenk was my junior Marine at second battalion sixth Marines. He had a positive attitude and an eagerness to learn more about his job and what it means to be a United States Marine. I didn't know Austin for very long but he had a positive impact on our armory and is dearly missed. I have known Jesse Bopp since August of 2020 when I arrived at second battalion sixth Marines. We have been peers and very close friends since that time and have spent a very large amount of time together. I am familiar with the facts of this case and that Jesse Bopp is pleading guilty to involuntary manslaughter and orders violation. In my experience Jesse was an asset at work and a great friend. He has never been the type of person to get in trouble or be anything but a positive experience to anyone he interacts with. Jesse made an awful mistake that cost the life of Austin Schwenk. I do not believe that is indicative of the kind of person he is. Jesse is the kind of person who helped me through hard times and was there for me as a best friend. I believe that Jesse is fully aware of the impact his actions have had on the family and friends of Austin Schwenk and he is remorseful.

Signed

Sergeant Joshua R. Grimison

DEREK M. TULANOWSKI
[redacted]

Phone: [redacted]

Your honor,

My name is Derek Tulanowski, I'm currently in the Marine Corps IRR and residing in New Jersey. I served in the Marine Corps from 2018 – 2022. After getting out of active duty I used the Post-9/11 GI Bill to finish school and get my BS in Business Administration. After that I decided to begin working for my father as a plumber in his plumbing business. I have been doing that for a year and half now. I'm responsible for taking care of myself and my family, as well as helping my father with his business.

My first unit I was with when I arrived in Camp Lejeune was 2nd Battalion, 6th Marines. I was with them from November 2018 until April 2021. A month or two after I got back from deployment in June 2021, Corporal Bopp arrived to our unit, and was the first time we had met. We were the same MOS, 2171, so he was apart our close nit team and worked directly under me, as my junior Marine. We worked in the armory, and our section alone comprised of only about 10 Marines, so we knew each other very well the time I was still with 2/6. I worked alongside him 5 days a week, and even after work hours we'd often workout together almost every day. We very often were together on weekends as well, visiting friends off base, going to the beach, partying, and other activities.

When Corporal Bopp first got to 2/6 I was a newly pinned Corporal and he was a Lance Corporal who was about to be my junior Marine. I wanted to be hard on him like any new NCO would do when getting new Marines and I tried my best to not be the nice guy and make his life miserable. Whenever I gave orders to him, he wouldn't hesitate to obey them, and did them with a smile on his face. After a few weeks I realized I was trying to hate him for no reason, when in reality he was a genuinely good and kind guy. Our friendship grew large very quickly, as like I previously stated, we were together 7 days a week. Even as his superior, he kept me accountable in some circumstances as well, which is something I appreciated even though I never told him. If I was going to skip the gym because I was tired he would make sure I went, or if there was work that I forgot about, he would remind me that we need to get it done. He was there for me for the small things that meant a lot to me. He was the Marine that if I needed someone to stay late to meet a deadline, he would be the first to stand up and stay late with me. He's truly selfless, hardworking, and what I like to call, a stand-up guy. If I had the chance, I would have loved for him to meet my family, because he treated me with respect, and I know he would have treated them with respect as well. Corporal Bopp is a one of a kind man and Marine.

Very Respectfully,

DEREK M. TULANOWSKI

Dear Sir:

My name is Anthony J. Bigger. I am currently employed as an Environmental Specialist with the Iowa Department of Natural Resources. I have served the citizens of Iowa in this position for 20 years. Prior to my employment, I proudly served in the United States Marine Core Reserve from May 1998 and achieved the rank of Sergeant, and was honorably discharged on April 19, 2006. My son Blake Bigger is also a proud member of the US military. He currently serves as a 0331 in the US Marine Corp and is stationed at Okinawa Japan.

I am writing this letter in support of Corporal Jesse Bopp. I have known Jesse's parents for many years, and likewise have known Jesse since his younger days as a kid. I have always thought of Jesse as a good person, and was pleased that he chose a career defending our nation. The Jesse I know is a well-mannered, cheerful young man, quiet and not overly outgoing. Becoming a Marine was a tremendous honor for both Jesse and his parents, and he took great pride in serving our country.

I understand Jesse has accepted responsibility for violations of Articles 119 (involuntary manslaughter) and 92 (orders violation), UCMJ, at a general court-martial. While my thoughts and prayers go out to the victim and his family, I believe Jesse is remorseful for his actions and still has much potential, and after rehabilitation can once again be an asset to our great nation. Jesse and his family will have my support as they attempt to move forward with their lives and this extremely difficult situation.

Sincerely,

Anthony Bigger

Digitally signed by Anthony Bigger
Date: 2024.11.25 07:36:14 -06'00'

Anthony J Bigger

November 24, 2024

Sir:

My name is John D'Amato and I have been retired now for the last 5-years. Before retirement, I was employed at one of the largest machine tool manufacturers in my 43 year career with Fives Machining. We made machine tools that covered industries from, Auto, Oil & Gas, Shipping, Aircraft, etc. My job, at times, had me traveling the world where I visited military facilities in the U.S. as well as other countries. My wife, Terry, is also retired and has been for the past 6-years. Terry, has had multiple jobs in her career from Insurance, to telecommunications, to her most recent job before retiring at a Head Start Program based in Fond du Lac, WI. Both of our fathers proudly served in the Navy during the Korean War and beyond.

I've known Corporal (Jesse) Bopp since the day he was born. I've been good friends with Jesse's father, Tom for the past 50 years and his mother, Maureen, for about 40 years. My wife and I have never experienced any type of disrespect that would make us question his character. Jesse has always been a quiet leader, keeping his head down and doing the work. Before joining the Service, Jesse had the opportunity to work for a very good friend of ours, Jerry Fellin. I was told multiple times how well Jesse got along with others, was always on time, carried his share of the work, and sometimes the work of others. We know from Jesse's parents that he looked forward to joining the military and was proud to be a Marine.

It is our understanding that Jesse has accepted responsibility for violations of Articles 119 and 92 at a general court martial. As we stated in a previous communication, we do not in any way feel Jesse is a threat. This was a very unfortunate accident with no malice or forethought and we know he is very remorseful. His family and friends have been very, very supportive and will continue to be there for him. Jesse is a strong, smart young man who has a lot to offer as a son, friend and co-worker.

[redacted]

John & Terry D'Amato

DE G

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Annie Matte

[redacted]

My name is Annie Matte, I have known the Bopp family for 14 years, and I am writing this letter to offer a more complete idea of who Jesse Bopp is as a person. I met Jesse several months after I befriended Delany in 2010, when he was around 11 years old. The Bopps have been a positive influence on my life ever since, and they have all treated me with kindness, generosity and understanding.

I didn't have much when I was a child, but the Bopps took me under their wing and shared their meals, home, holidays and vacations with me. When my life was upended by my father's death in June of 2015, the Bopps welcomed me into their home as one of their own. During a holiday visit later that same year, Jesse was one of the first to tell me that I was like family to him. Since then, Jesse and I have had a typical sibling relationship where we both gently tease, hang out, and genuinely love and support each other. When he told me that he referred to me as his adopted sister on base, it meant the world to me. Jesse isn't the most verbose person, he shows how much he cares with small gifts out of the blue that let others know he is thinking about them. He is always willing to listen and hear out what someone has to say. Jesse is an intelligent, strong, caring person, even when he doesn't know how to put his care into words.

Jesse aspired to be like his grandfathers, who both served our country in times of need. He joined the Marines despite protests from family members worried for his safety if he were to be sent overseas. I have been exceedingly proud of him for his resolve, even as I worry about him constantly. Since he became a Marine, I know that he suffered the loss of some close friends in a 2015 helicopter crash. He would reach out to me around the anniversary most years to talk about his friends and share stories about their time together. My little brother tries his best to help those around him and make everyone feel welcome. He likes animals, spending time in nature, camping, reading, and fixing things. After he enlisted, he would keep in contact by staying up late talking with friends and loved ones to hear them out and offer advice.

The past few months have been a painful time for our family. We were initially all excited to see Jesse come home by the end of the year so we could all spend some quality time together. I haven't had the chance to see Jesse since August of last year. The holiday celebrations we normally spend together didn't happen this year. My adopted family hasn't

been the same without him. Additionally, I met the love of my life a few years ago, and we were planning to get married soon. I could not go forward with such plans were Jesse not able to be there. I will not be able to stand in front of my family and friends in celebration without my little brother there, supporting me along the way like he has been all these years.

In regards to the events that required me to write this letter, I fully understand that circumstances are serious and beget consequences. I can only beg that you take into account Jesse's service, outstanding moral character, how resolutely he has handled his situation to this point, and the overwhelmingly positive character testimony offered by those who know him best. I know what it's like to lose a close family member, but I can only guess what Austin Schwenk's family is going through and how heartbroken they must be. Ever since I found out what happened, I have grieved for the Schwenk family and their community, the struggles that both of our families will face moving forward, and for my little brother. I know that nothing any of us say or do can change what has happened. I only respectfully ask that Jesse be given the chance to make something of his life going forward. If Jesse were given a long sentence, his close immediate and massive extended family would suffer greatly, and I do not know when I would be able to afford, physically and monetarily, a trip to see him. I know that Jesse has the resolve and desire to recover and move on from this. I can also attest that Jesse has no chance of being involved in anything like recent circumstances at all in the future. Jesse is five years younger than me, but he has always impressed me with how compassionate he is, from when he told me "you're basically my older sister at this point," to the last time he quietly said "love you too."

Thank you for reading my letter and considering my experience with Jesse. I solemnly promise that the contents of this letter are accurate, and I hope that I have been able to help you better understand who my little brother is.

Respectfully,
Annie Matte

Hello, my name is Delany Bopp and I am Jesse Bopp's older sister and only sibling. In addition to being siblings, I would consider Jesse to be one of my best and one of only few friends in this world; we are extremely close. We are just 5 years apart in age and have grown up our entire lives together. Throughout our years growing up, we have genuinely always gotten along, apart from the occasional, minor sibling argument, and spent time doing things together often, like playing lots of video games. Jesse has even developed a close bond with my best friend from high school, Annie Matte, who he even considers to be another sibling. Prior to Jesse's enlistment in the Marine Corps, we had never spent any significant length of time apart, besides the first two years that I attended college and lived on campus, although I was close by and would come home almost every weekend. Although we have grown up to differ in some of our interests and hobbies, and have taken different paths in life, we genuinely still share many of the same interests, beliefs, and outlooks. Even since Jesse has been away in the military, we have still always been in touch and have never lost the close bond we have. Jesse and I have a true understanding of one another and the relationship I have with him is one of the most important things in the world to me.

As one of the people closest to Jesse and as one who has known him his entire life, I would like to try to describe the type of person that he is and what I know to be true about him. There are many truths about Jesse that have never changed: he is smart, he is resilient, he is kind, he is hardworking, he is humble, he is selfless, and he is genuine. Jesse is one of the smartest people I know. He has done extremely well in school throughout his life, including throughout the schooling and examinations he had upon enlisting in the Marine Corps. Even outside of school, he has always been quite practical and good at solving and working though problems. Many of my memories of him from when he was younger involved him disassembling and reassembling things, building contraptions, or doing experiments. I know that he enjoys working with his hands and understanding the inner workings of technology and mechanics; pursuing a job in the trades and/or working in general contracting/remodeling was, and continues to be, his plan for the future. As shown through Jesse's academic success, as well as through his accomplishments within the Marine Corps, he is extremely hardworking and has a high level of dedication. When presented with situations that are difficult, which our family, as well as Jesse as an individual have experienced, I have always watched him do the work to come through it and come out on the other side successfully, which I see him being able to do with the situation he faces now. Since enlisting in the Marine Corps, I have watched him adapt to new situations, face extreme challenges, find success, and form meaningful friendships; although he may falter on occasion, he has always stayed true to who he is at the core and kept ahold of what is important. Jesse was proud to follow his grandparents and other family members' footsteps in joining the military and we are all extremely proud of the things he has accomplished in his life thus far. In contrast to the mental toughness I have seen Jesse call upon to face the difficult situations, I have also always known him to be just genuinely good and gentle at the core. He is selfless, and thoughtful, and cares genuinely for the people around him. As my brother, and as my friend, he has always been a source of support and of strength to me. Jesse has always been there to listen to my struggles, to sympathize, and to help me through them. Among his friends and our mutual friends, many have known him to be the listening ear and the giver of advice; no matter what he may be struggling with, he is always able to find it within himself to offer help to others before himself. Many late nights over the last few years, Jesse has stayed up with me, as well as with other friends, just talking about life or about our struggles, and it's apparent that he truly cares. Although he may not always show it outwardly, I know him to be someone who feels deeply and

genuinely about things; with the current circumstances I have seen the remorse and the regret he feels and I know that all he wants is to move forward, live humbly, and do everything that he can to be a better man after this tragedy. When it comes to Jesse's conduct and behavior, as well as his general treatment of people and the world around him, I have never known him to be violent, aggressive, or disrespectful in any capacity. He has no history of behavioral issues throughout school or anything else. I have never known him to have a genuine physical fight with anyone; he would never and has never intentionally hurt anyone. He tends to have a tough and/or stoic exterior, but at the core, he has never been an aggressive person. I have an endless list of great things I could say about my brother, I have an indescribable amount of love and respect for him, and I just hope the brief description above could offer some insight into the type of person that he is.

Regarding the circumstances that have prompted the writing of this letter, I want it to be known that I, and my family, understand the severity and understand that there are consequences; I only ask that you take into consideration my brother's overall history, his great character, his mature handling of his circumstances thus far, and the positive testimony from those who know him best when determining the consequences he will face. My heart is broken for everyone involved here, not just my brother; everyone affected will live forever with the outcomes of all of this in way or another. I cannot imagine the grief of Austin Schwenk's family or begin to put myself in their shoes, all I know is that losing my brother is my worst nightmare. Nothing that happens from this point can change what has occurred, I just hope that Jesse can at least be given the best chance possible to move forward from this and make something positive with the rest of his life. My parents and I have been in a great deal of pain of our own ever since the beginning of all of this; pain for Austin and his family, pain for Jesse, and pain for ourselves when trying to live with this new reality. Jesse, my parents, and I are all extremely close and being separated in this way has been extremely difficult, especially considering that Jesse was meant to be back home with us in Wisconsin starting this past December. Every day I can see how deeply my parents are hurting knowing the situation that their son is in, and I truly do not feel complete without my brother being home. I just hope that it can be taken into consideration that if Jesse were to be given a lengthy sentence, we would all suffer greatly. With our close-knit immediate and large extended family back home, and with his friends there as well as those he's made in the Marine Corps, Jesse has all the support and resources in the world; we are all prepared to do anything and everything for him. I truly believe that Jesse can and will recover and move forward from this, he is adaptable and has shown that he can face adversary and come out of it with a positive takeaway. I can also say with certainty, because I know my brother, his history, and his character, and because I know how strong his desire to be better is, that there is zero possibility of Jesse being involved in anything like this circumstance ever again.

I greatly appreciate you taking the time to read this letter and to consider my perspective. I stand by everything I have said here, and I just hope that it could give you at least a small insight into the truth of my brother, Jesse Bopp.

Respectfully,

[redacted]

Delany Bopp

Dear Sir-

My name is Maureen, I'm the mother of Jesse Bopp. Since the tragic event in October, my family and I have struggled to come to grips with what happened. As a Mom, I can't imagine losing a child. I believe the Schwenk family must be in agony. I wish them peace. I'm writing this letter with the hope you can see what kind of man my son is and give consideration to every moment of his life before and after this terrible tragedy.

Jesse was a very wanted child. We were overjoyed when he was born and he has been a beautiful son & brother to his sister, Delany. He was a very gentle child who followed his sister everywhere and loved to read. Jesse was a caring, thoughtful and a very funny boy. He loved to be outside and also loved animals. We fostered pets while he was growing up and he always helped caring for the litters of kittens from our local humane society. He was involved in Boy Scouts, baseball and basketball during his grade school years. Jesse went to a Catholic grade school until graduation in 8th grade. They had very high standards for behavior and academics. He did well in both areas. He went to high school and continued to be an excellent student, taking Spanish & French, as well as college level classes. The summer after junior year, he went with his Spanish class to Belize. They learned the language, customs and tutored some local children. It was a very exciting and educational trip for Jesse. He would not have been able to attend this trip if there had been any discipline problems during high school. He still keeps in touch with the teachers that chaperoned the trip. They have all agreed to make statements on his behalf.

When Jesse decided to join the Marine Corp., I was very surprised. He told me he wanted to help people. As hard as it was to accept his choice, knowing he would leave home for many years, I supported his decision. He was not an impulsive person and had given this a lot of thought. We helped him prepare and were very proud when he graduated boot camp. During his 5 years in the Marines, he faced many struggles and persevered. He listened, learned and became an amazing man. We spent so much time apart. It was very hard for our whole family. He always saved all of his leave to come home. He made some very close friends and planned to invite them to our home when he was done serving. He was looking forward to coming home, finding a job and living his life. He thought about going to school to learn a trade, building a house and having a family. He wanted to spend so much time with his sister. He said he wanted a room full of books in his home. The next part of his life was just beginning.

When I found out what happened, my heart was broken. Both for our family and the Schwenk family. Jesse made one mistake that has catastrophic consequences. He is not violent, did not intend for this to happen and is filled with remorse. He will carry this burden for the rest of his life. We as a family will also carry this with him. There isn't a day

when I don't think of Austin's family living without their son. I do not want this to define his life. He has served his country for 5 years. He has had no discipline problems during that time and is very proud of being a Marine. He is respected by his peers in the Marines and earned everything he worked hard to achieve. I truly believe he is a good person and will continue to live an honorable life, never once forgetting Austin Schwenk and his family. I'm asking you to consider his future and that we don't see two young men's lives ruined because of an accident. Our family is not fully whole without Jesse. We need him to come home and start healing.

I appreciate you taking the time to listen to my thoughts about Jesse. Our home is filled with love and cannot wait for Jesse to come back to us. He will continue to be a productive member of society and in his words, "be a better man".

Thank you-

[redacted]

Maureen Horning-Bopp

I'm writing this letter to try and give you some insight into Jesse as a person and what he means to our family. Coming from his dad you may think this is very biased but I am going to be as truthful as possible. Growing up he was a gentle and caring person who loved to hangout with his sister. They have always been very close and have a strong connection. Jesse did the usual things growing up baseball, basketball, volleyball and track and was in scouts as well. I was one of the troop leaders for his scout group and a lot of those boys became longtime friends. Sports gave way to academics once he reached high school. Jesse did very well academically taking mostly AP courses and was in the French and Spanish honor society. Jesse was also in the Rotary club working on local community problems. He also traveled to Guatemala and Belize with the Spanish honor society where he lived with locals and taught English. He maintained mostly A's and B's throughout high school. I will also tell you through all his schooling Jesse never had a detention or was in a fight and respected his teachers as he did us. Like most teenagers he met a girl and they dated for a couple of years. When they graduated both decided to go their own way. Obviously Jesse joined the Marines and she ended up in the Army National Guard.

Joining the Marines was a surprise to Jesse's mom and I and it took awhile to get on board and support his decision. We assumed with his academic background he was off to college. When we sat down and talked about what he wanted to do we couldn't argue with his reasoning. He basically said he wanted to do something that gave him the opportunity to help people that couldn't or were unable to help themselves. The day we watched him take the oath was a proud day and a sad day as well. When we went to his graduation from Boot camp seeing him in line with the other recruits the doubts went away we were very proud of him. These last five years have been hard not being able to see him grow and not being able to be there when we could tell things were hard. His proudest moment during his five years of service was when he knew he was being deployed. This was his opportunity to do the things that drew him to the Marine Corp in the first place.

The last phone call we had with Jesse he talked about the new guys he was training to take over getting ready for his release. He was very positive about and looking forward to the next phase of his life. He was planning on working in the Trades specifically carpentry and taking classes to get his degree and then build his own house. What happened a week later in October was a tragic accident and by no means was there any malice or intent on his part he liked these guys they were all friends. We know there are repercussions for what had happened as does Jesse. Jesse has told us numerous times how he wishes he could undo what had happened but he knows and we know that's impossible. He has broken down talking to us about this and he is very remorseful. I can't tell you how hard this is trying to live in this new reality. Every time Maureen and I step outside or go anywhere we can't help but have this feeling of guilt because we know where Jesse is. Some days I just feel I can't do this anymore

and want to give up but that's not possible. We're trying to move forward and be strong for Jesse and Delany because if we can't get through this than Jesse won't either and neither will his sister Delany. Jesse has a large support group of family, extended family and friends who are with him always. Jesse is a good man and this accident is something that I can't believe happened but I know will never happen again.

I have tried to put myself in Austin Schwenk's parents place but that's impossible. Maureen and I have both lost our parents and we have both lost brothers to soon but losing a son or daughter is something different. I can only hope they have family and friends to lean on and help them through this very hard time. My hope is one day that their anger may subside and maybe are able to find some forgiveness for Jesse.

What I'm asking is to please look at who Jesse is and let us bring him back home where he belongs. Please look at his life as a whole and his service to his country as a Marine and not let this tragic accident be the defining moment in his young life. Please don't let another son be lost in this tragedy. He is a good and loving son and brother and our family won't be whole again until he's home.

Respectfully:

[redacted]

Dear Sir,

My name is Pete Little, I am 39 years old. I enjoy hunting, fishing and football. I have spent 3.5+ years as a volunteer coach for the youth football team in my community. I am a production supervisor at a CNC machine shop in New Berlin Wisconsin. While I have never served in the military, both of my Grandpa's have served in the armed forces. As well as several co-workers and close friends that too have served in the military.

I have known Jesse for the last 3 years. While I haven't had a lot of time with him as while he served in the marine corps, I would only see him when he was home on leave. The time that I spent with him he is a very quiet and reserved individual that always talked with and showed respect in every interaction that I had with him. He is always willing to help where help is needed. While on vacation with him and his family I had a chance to be around him for a week in the summer of 2023. While he was excited to get out of the marine corps when his contract was up, he often talked about his time in the marine corps and the job he did. He spoke of those things with high regard, and it seemed like he enjoyed the work and his time in the military. During that week I would find him reading a book in the peace and quite of a shade tree or just going for a swim in the local lake and going for runs. As he put it, it cleared his mind to exercise.

I understand that Jesse has accepted responsibility for the horrible accident that accrued last fall and is getting court martialed for violating Articles 119 (involuntary manslaughter) and 92 (orders violation). I believe Jesse's potential for rehabilitation is great. Since the accident he has showed his remorse and wished it never happened. Overcoming this will take a long time as I don't believe anyone can recover from what happened and what lead up to the incident quickly. Jesse is very fortunate that he has a phenomenal support system around him with a very close tight knit family as well as a large web of family and friends that will do anything they can help, me included.

Thank you for your time,

Pete Little

[redacted]

Frank Horning

[redacted]

Sir,

My Name is Frank Horning and I spent forty years in the publishing industry serving the communication needs of the Catholic Church. My role as Vice President of Operations was an executive leadership role that gave me the responsibility of five production facilities and over two hundred and fifty employees. My father, along with a brother and sister have served honorably in the military.

Corporal Bopp is my nephew and I've known him his entire life. Corporal Bopp and his family have been very close to our family and we live in the same city. As my sister, Maureen Bopp, and I come from a family of twelve, we have many family gatherings and have spent a week each year at a Christian camp that Corporal Bopp has attended as well. He is always very engaging and respectful to both young and old. Corporal Bopp has always been a person of high integrity and good moral character. He has always been a very good natured young man and has participated in many family and school activities. As a young man at our annual Christian camp week he has served in a counselor role leading groups of young children on various activities. Corporal Bopp has always been extremely helpful and always volunteers to take on additional responsibilities when asked. I have a very high regard for his character and can vouch for his willingness to serve others.

In talking to Corporal Bopp's parents during this past year, they have relayed his understanding and acceptance of the violations of Articles 119 and 92. He has taken responsibilities for these actions and understands the consequences. I have also been told that he is extremely remorseful and has been using his time to better understand how he can become a better person. I fully expect him to overcome this tragedy but understand that getting professional help will be necessary to help him through this process. Corporal Bopp will have a support group of family

Respecrfully,

[redacted]

Frank Horning

Sir,

My name is James Horning and I am a widowed father of two young adult women. I am currently employed at Alter Trading in Rockford, Illinois where I am the facility manager of a very large scrap metal recycling facility.

I am Jesse Bopp's uncle and have known him since he was a child. I watched Jesse grow up as a

Well mannered and polite young man. I have always been proud of Jesse as student in elementary and high school and onto his career in the USMC.

I feel Jesse is a young man of good character, good judgement and overall good guy. Jesse is very proud of his service in the U.S.M.C.

I understand That Jesse has accepted responsibility for violation of Articles 119/ 92 and the general court marshal. I truly believe that Jesse is very remorseful and will overcome this situation upon return to civilian life. I am very sure that Jesse will become a productive member of society and move forward into the next chapter of his life. He has the desire to move into the Trades and start a career home building , carpentry, ect.

All of his family and friends will fully support him upon his return and help him start his civilian life.

Best Regards,

James Horning

[redacted]

Nathan Hilmer

[redacted]

25th November 2024

Sir,

My name is Nathan Hilmer and I am writing this letter on behalf of Cpl Jesse Bopp. I'm currently living and working in Cincinnati, OH as a marketing professional for Critical Mass, but grew up in New Berlin, Wi as a close friend of Jesse.

Jesse and I have been close friends since we were 5 years old, with our families spending a significant amount of time together. We went to summer camps, road trips, vacations, and countless playdates throughout our childhood. He has always been full of curiosity and adventure, craving to see the world and spend time outdoors. There are a number of stories from that time we spent together that I think highlight his character well. One such memory is from our many summer trips to a local lake, where we would spend hours attempting to catch the frogs living among the reeds. He was always determined to net at least one, but respectful of how it was done, ensuring that they were never hurt and returned to their homes shortly after. I was never as patient when it came to catching frogs, but he was always patient with me, explaining how to best do it and lending me a net if I ever forgot mine. This is all to say, it came as no surprise when he decided to enlist in the Marine Corps as it provided him with a profession where he could continue to do those things that he has always loved, but also to go beyond and help people that are in need and not able to help themselves. I can tell the passion that he has for the Marine Corps from the wry smile and excited eyes whenever he begins to tell stories of the places he has been and people he has met along the way.

I understand that Cpl Jesse Bopp has accepted responsibility for the violations of Articles 119 and 92, and is hence undergoing a general court-martial. I thoroughly believe in Jesse's full rehabilitation potential, as displayed by his actions and behavior since the incident, as well as my long standing relationship. Jesse will always have my full support and trust as he works through this tragedy.

Sincerely,

Nathan Hilmer

December 10,2024

Sir,

I am Narciso J Fellin, writing on behalf CPT. Jeese bopp. Whos father Tom Bopp I have known since 1972, His mother Maureen since 1989.

I am a father of 3, with a 37-year-old son named Jonathan.

Started my life as a farm boy, raised catholic. I graduated from collage in Criminal JUSTICE, Juvenile studies because of economics, I later went into road building and tetired in 2003

Now for the last 21 years I have owner Jerry's Services Home Remodeling and contracted. Jesse worked for me between high school and enlistment from June 2018 to December 2018. Where he had the opportunity to work side by side with his father tom and my son Jonathan.

My father Narciso served in the US Navy march 1944 to December 1947

I have known jeese since the day he was born. April 14th 2000. I have seen him grown and grown into a quite positive man who always seem to be happy and smiling. His character when we talked seemed to be directly related about him family, working out and his future. As high school approached, his goals and future changed. He told me, about him wanting to join the US Marine Corp. He was going to soldier just like his grandfather Roland.

This is extremely hard for me to understand how an accident like this could ever happen.

By Jesse accepting the responsibility for his actions of the violations of the court, shows all involved what kind of man he was raised into and is. That alone with will help him to rebuild his life.

In my opinion with Jesse's heart and soul, family, friends, support he will and we all will all overcome this unfortunate life changing situation. Together.

Your honor, Jesse a job, future, opportunity with my company Jerry's Services, when this matter is settled.

So he can move forward in life. "isn't that's what all involved wants? And are praying for?" Amen

Thanks for Listening

Narciso J fellin

Daniel R Gaggioli

[redacted]

December 9, 2024

RE: Corporal Jesse Bopp

Sir,

I am an Engineering Department Manager for a mechanical contractor in Waukesha Wisconsin.

My family and I have been friends with the Bopp family for over thirty years. In that time there were many gatherings of families and friends of which Corporal Jesse Bopp was in attendance. I found Jesse to always be respectful and friendly to myself, my wife, and my daughters. It was also clear that Jesse had a close loving relationship with his parents, Tom and Maureen, and with his sister Delany.

I understand that Corporal Jesse Bopp has accepted responsibility for violations of Articles 119 and 92.

Speaking with Jesse's parents on different occasions over the previous year it is clear Jesse is remorseful. The support Tom and Maureen have given their son, as he has gone through this process, is only the beginning of the support he will receive from them. And I, myself and many other friends of the family I know, will be available to support Jesse. If Jesse was to apply for a position with the contracting firm I work for, I would not hesitate to recommend to the hiring manager to hire Jesse.

Respectfully,

[redacted]

Daniel R Gaggioli

Brigid Gaggioli

[redacted]

Sir,

My name is Brigid Gaggioli I am the assistant food service manager at Wisconsin Hills Middle School in Brookfield Wisconsin.

I have known Corporal Bopp and his family since he was in grade school at St.Luke's in Brookfield. We have been friends with his family since then and have celebrated many milestones with them. Jesse has always been very respectful to adults, and got along with his peers. I have known him to be peaceful and dependable. I know he was very proud to be in the Marine Corps, as were his family.

I know he has accepted responsibility for violations of Articles 119 and 92. In my opinion he is a great candidate for rehabilitation, he has shown remorse and knows he will have to live with the consequences. Moving forward he has a very loving and supporting family and wide circle of friends to help him.

Very Respectfully,

[redacted]

Brigid A Gaggioli

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December 16, 2024

Sir:

My name is Elizabeth Shumaker, I am a [redacted] year old wife, mother of 5, grandmother of 13 and follower of Jesus. I live in Beach Park, IL and am the bookkeeper for our apartment rental business.

I have spent a week every summer at a family camp in northern Michigan with Cpl Jesse Bopp since he was a toddler – 1 or 2 years old. I can recall nothing but positive experiences with Jesse in all of those years. He is kind, respectful, helpful and sincere. He was quick with a smile anytime our paths crossed. As a teenager and young adult, the younger campers looked up to him, and I recall Jesse playing volley ball with the little kids, helping them and teaching them, although most of them weren't old enough get the ball over the net.

I understand that Jesse has accepted responsibility for violations of Articles 119 and 92, UCMJ at a general court-martial. I cannot overstate my shock and sadness in learning of Jesse's involvement in this situation. I believe that he is very remorseful. And while nothing can change the facts of the accident, and Jesse will carry the burden of his actions forever, I believe that he will overcome this. He has a great deal of love and support from his family and friends, and it's my prayer and belief that this tragedy will motivate him to be an instrument in preventing situations like this in the future. I believe he will again be a positive and contributing member of society.

Respectfully,

[redacted]

Elizabeth Shumaker

Bridget Geboy-Helfenstein
[redacted]

Sir,

My name is Bridget Geboy-Helfenstein. I was one of Corporal Jesse "Domingo" Bopp's Spanish teachers at Nathan Hale High School in West Allis, WI. I retired this past June after 33.5 years as an advanced Spanish language instructor, Senior Class Advisor, Study/Travel Trip Leader, Spanish National Honor Society chapter founder and advisor, and American Association of Teachers of Spanish and Portuguese Wisconsin Chapter President. I am a full-time college student, again, at Waukesha County Technical College pursuing a second career as a Medical Interpreter for Spanish-speaking patients. I am also a Red Cross-certified Professional Lifeguard at a local gym where I assist many people of all ages. Before my career in education, I served my country as a United States Peace Corps Volunteer in Honduras '88-'90.

I had the honor of teaching Jesse for two years in his upper-level Spanish classes during which I witnessed the dedicated, conscientious, and smiling student that he was. When we needed to create a final exam scrapbooking project, Jesse self-identified as a faithful yet stubborn, calm, and funny young man who enjoyed participating in charity as a volunteer for the poor, an athlete rather than a spectator, a creator of jokes and stories, the pride of his grandfather, a (future) marine, an earner of a good life, a thinker and a leader, a fan of novels, a world traveler, the owner of a guitar and the son of parents who want him to try hard and do his best in his life. I translated this from a poem in Spanish that I have before me right now. I also have a photo of Jesse from an assignment prompt that he wrote which says, "One must conquer challenges to achieve goals." An additional assignment was regarding song lyrics telling to what we would give a toast as we ended the calendar year. Jesse's poster toasted "times you don't remember with people you won't forget." The photos are a literary illustration of the young man I knew from the classroom. For a high school boy, Jesse Bopp was a profound thinker, who was not afraid to show his true self to his teacher and classmates.

In addition to the classroom, I knew Jesse as a responsible participant in my 9th study/travel trip to Guatemala and Beliz in 2017. He lived in an Antigua, Guatemala homestay with another young man and lived with my son of the same age in the hotels. When I asked my son to describe Jesse Bopp, Elijah immediately stated, "he is kind and caring, trustworthy, and loyal." Jesse was indeed a skilled leader on that trip. He listened intently to the tour guides to learn as much about the country and the people as he could. He bonded and made connections with the students he did not know well previously and he enjoyed joking around and spending time with my sons and husband. He was respectful, helpful, and dependable in challenging situations while traveling with many teens. Jesse positively impacted his Guatemalan teachers and was trusted to make good decisions when he had free time after the school day ended and he was in a group of teens. He was strong, athletic, and determined in his fitness as he balanced on the

top of a 4-foot tree stump after hiking up the Pacaya Volcano. I am so happy that he chose to travel, study, and embrace other cultures with me.

I know that Jesse was so proud to be accepted into the USMC. He longed to be a part of the military and throughout his entire senior year, looked forward to being a part of the Marine Corps. A couple of years ago, at Christmas time, while Jesse was home on leave, my husband and I ran into him and his sister Delaney in Milwaukee. He was so excited to tell us about his Marine Corps experience and we were overjoyed to see him doing good things in the world. It was clear that he was happy and proud to be a part of the USMC.

Unfortunately, I am aware of his current situation. I understand that he has accepted responsibility for violations of Articles 119 (involuntary manslaughter) and 92 (orders violation), UCMJ, at a general court-martial. I know that he has deep regret for the situation in which he finds himself. I also know that he is not a person who would purposely inflict pain on another person or family. I truly believe that he will still be able to contribute positively to this world if given the chance. Even more so than he may have, had this situation not happened. I assure you that Jesse can overcome this setback and will move forward to do good things. I believe in Jesse and have a history with him during his formative years, and I know that his upbringing will cause him to do whatever he can to make things right in his way. His family and I support him and know there are others here in WI who will be here to positively influence him, assist him in his struggle to make amends, and continue on his quest for penance. I hope that you see the person Jesse was raised to be throughout this letter and will give him a chance to attempt to make amends sooner, rather than later.

Respectfully,

[redacted]

Bridget Geboy-Helfenstein

DE G

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From: Clare Freitag

To: Military Judge

Subj: Letter in Support of Jesse Bopp

I am Jesse Bopp's aunt, an older sister of his mother, Maureen Horning-Bopp. I've known Jesse since his birth. Jesse has always been a kind, polite, respectful person. Even as a young boy he was easy to get along with and talk to about his many interests. He is a loving son and brother. Jesse excelled academically in high school, even while spending a lot of time working with the Marine recruiter to improve his physical abilities. The only complaint his mother ever mentioned to me about Jesse was that he insisted on wearing gym shorts, t-shirts, and sneakers to run and catch the bus to school every day, no matter how cold or wet it was outside.

Jesse was interested in serving his country at an early age, possibly influenced by the service of both of his grandfathers, one during WWII and one during the Korean War. Jesse wanted to help people, and he thought that the best way to do that was to serve in the Marines, the toughest of all the services. He committed to 5 years of service, a very great sacrifice for such a young man. Jesse regrets, I know, the terrible event that is the reason for this hearing. He has committed to come out of this experience as the best possible man that he can be. Jesse has a very large support network that includes a large family in WI, friends & teachers from school, friends from family group camping experiences, and friends from his time in the Marines. I am confident that Jesse, when he is released, will reintegrate into society quickly and with the determination to make a positive impact on society. He has many friends, aunts, uncles, and cousins who will serve as mentors to help Jesse find his place in the industry of his choice. Jesse has a fine intellect and I'm sure he will be an asset to whatever trade or skill he determines is right for him.

Respectfully,

/s/ *Clare Freitag*

To: Military Judge

Subject: Letter for Jesse Bopp

I am Therese Nitka of Brookfield Wisconsin. I have known Jesse Bopp since he was about 5 years old. He attended St. Luke Catholic School with my son, Kyle Nitka in kindergarten, first, second and third grades. During those years, Kyle and Jesse became friends and played together at our home from time to time. They also attended other social activities together, such as birthday parties, movies and sledding. Jesse was a polite and friendly young boy. In first grade, the boys started cub scouts together. In scouts, they participated in many activities including hikes, popcorn sales, and service projects for the community and the church.

Jesse and Kyle continued scouts together from fourth grade through sixth grade even though they attended different schools because St. Luke School closed after they were in third grade. They continued their scouting activities and fulfilled all the requirements to complete their cub scout levels and to be prepared to become boy scouts. Jesse was a self-starter and would pursue the required tasks for each level often on his own without prodding. He liked to first complete some requirements and then have his playtime.

From sixth grade through high school, because Jesse and Kyle attended different schools, they would see each other only a few times a year. There were 6 families from St. Luke School that kept in contact and we would have about 5 gatherings each year where the parents and the kids would socialize. Jesse and Kyle would play games with the other children, about 10 in total including Jesse's sister, Delaney and Kyle's brother, Alec. Jesse was playful, creative and courteous during these events. As busy seniors in high school, and although Jesse and Kyle had different friends from different schools, Jesse attended Kyle's Eagle Scout ceremony to show he still supported Kyle.

We gathered at a send-off party before Jesse started his journey in the Marines. He was very excited about serving as a marine and the places and adventures awaiting him. He had prepared for months physically and emotionally. During his years of service, we would see Jesse about once a year when he would travel home. He had great stories to share about his duties and travels. He was very proud of being a marine.

We were very saddened to hear of the accident caused by Jesse in 2023. Knowing Jesse through the years, we are certain that it was just an accident and that there was no ill will. Jesse's belief in God and the sanctity of Life shows that he would never intend to take another person's life. He is very sorry and regrets the events of that day.

Jesse is ready to move on from this incident to be a productive member of society. He feels remorse for this death and is sorry he cannot change the past but he plans to do good for others in his future. I cannot wait to see what great things Jesse will do for this world.

Respectfully, Therese Nitka

From: Edward V. Nitka

To: Military Judge

Subj: Letter in Support of Jesse Bopp

I met Jesse Bopp and his family while my sons were attending St. Luke Catholic Grade School in Brookfield Wisconsin. Jesse and my son were of the same age. Through numerous school events, we became close family friends. My wife and I were heavily involved in the Cub Scouts through the school. This is where I learned the most about Jesse's character.

We hosted numerous Cub Scout woodworking sessions in my home where Jesse was an active participant. He was always well behaved, followed the rules and helped the others where appropriate. I immediately recognized how quickly he learned the skills. Being out numbered by 7 year olds, I emphasized safety and respect for the tools. Jesse was good with the tools, much better than the other scouts. I didn't have to constantly watch him while I was focused on those of lesser attention spans. He built a nice wooden tool box!

During the summers I coached the Cub Scout softball team. This was challenging since it involved all scouts in the pack from ages 6 to 11 years old. Jesse was always athletic. There always seems to be a few boys who were more advanced than average. Jesse was one of these, and he recognized it. But instead of showing off or thinking he was above others, he helped the younger and less experienced ball players. While I was teaching some scouts simple tasks like how to hold a bat, Jesse was helping others understand where they should stand in the field. He assumed these small leadership roles without my asking. During game time, Jesse was very coachable. He was reliable and even keeled. We didn't win much, but that never seemed to get Jesse down.

After scouts and the closing of the school, I continued to be close friends with the Bopp family and Jesse too. His calm and mature personality never changed. I know he stayed athletic and lifted weights, always seeming to better himself.

When I learned of Jesse's decision to join the Marines, I was not surprised at all. Here's a kid where I saw at a young age his maturity, leadership, patience, respect for others and desire to help those less fortunate. It seemed like a perfect fit.

When I heard of the accident, I was in total disbelief. However, when I learned how Jesse handled himself, I was not surprised at all. I know Jesse is extremely sorry for the impact of his actions. His owning the mistake is totally "Jesse" and a reflection of his character rooted in his personality. I've heard that since the incident Jesse has become an avid reader, yet another example of how his character not changed and is trying to better himself.

Once this ordeal is over, Jesse will obviously be welcomed back to the community and our social group. Our Catholic beliefs emphasize the importance of human life and the sometimes difficult concept of forgiveness. The loss of one life should not be replaced by the destruction of another.

Respectfully,

Signed, Edward V. Nitka

From: Dana Peters

To: Military Judge

Subj: Letter in Support of Jesse Bopp

Thank you for taking the time to read and consider my letter.

I am writing to share my perspective on Jesse Bopp. We are family friends of the Bopp's and I have known Jesse since he transferred to the same Catholic grade school as our daughter, Taylor.

I have watched Jesse grow from a young boy into a positive, thoughtful, and focused young man. As a young boy he was a loyal friend, respectful boy scout and diligent student. As a teenager he continued to do well in school and was always a delight to be around. As a young man entering in the Marines, he was excited about the opportunities that were on the path in front of him and very proud of his decision. I had the opportunity to visit with him each time he was home on leave and with each visit, I was impressed with his growth, both as a person and as a member of our community. In those visits, it was clear that being a Marine was challenging and difficult but purposeful and rewarding at the same time. Jesse always had his eye on the future in our discussions and talked in detail about what skills he was learning as a Marine.

I have not spoken with Jesse directly since this tragic event happened. I understand from his family that he has made no excuses, and he has taken full responsibility for his actions.

When Jesse reaches the end of this situation our family is 100% there for him and his family. However we can be of assistance to help him, and his family heal and move forward, they know they can call upon us. Jesse will live with this event for the rest of his life. He will carry it with him as he moves forward in all aspects of his life. Jesse is a strong and kind person that will learn from this tragic event and humbly move forward to give back to the world around him. This will not be easy, but he has a large supportive network of family and friends that will be there for him. I am honored to be one of those friends.

Sincerely,
Dana Peters
Cell: [redacted]

David R. Peters
[redacted]

December 30, 2024

To Whom It May Concern,

I am writing this letter to provide a character reference for Jessie Bopp, whom I have known for several years through our close-knit community of families with children who attended private school together. The Bopp family and my family have become dear friends, and our social gatherings several times a year have allowed me to observe and interact with Jessie on numerous occasions.

From the early days of our acquaintance, Jessie has always impressed me with his politeness and respectfulness. Our children enjoyed spending time with him, and his positive influence on them was evident. One particularly memorable moment was his Eagle Scout ceremony, where Jessie displayed immense pride in his accomplishments—a testament to his dedication and hard work.

I had the pleasure of meeting many of Jessie's friends at his high school graduation party. It was clear that he surrounded himself with other admirable young individuals, which speaks volumes about his character. Jessie's aspiration to join the Marines was a testament to his sense of duty and commitment to serving his country.

Jessie's first deployment was understandably challenging for his mother, who missed him dearly. Throughout this time, both of his parents spoke with immense pride about his achievements and eagerly shared updates about his travels. This strong family support network has been a crucial pillar in Jessie's life, providing him with unwavering love and encouragement.

In light of recent tragic events, I want to emphasize that Jessie has the potential for a bright future. He possesses the determination and resilience necessary to overcome challenges and create a promising path ahead. My family and I stand ready to support Jessie in any way we can as he navigates these difficult times.

In conclusion, I believe that Jessie is a young man of great potential, with the qualities and determination needed to succeed. I wholeheartedly support him and am confident that he will continue to grow and thrive with the support of his family and community.

Sincerely,

David R. Peters

From: Adrianne Daggett, PhD. 21 December 2024

To: Military Judge

Subj: Letter in Support of Jesse Bopp

To Whom It May Concern:

Jesse is my cousin on my mother's side; he's about 15 years younger than me. I saw him fairly often while he was a child for holidays and family get-togethers; he was always a quiet, friendly and well-behaved kid. When he was a teenager, I remember my mom telling me how he'd become rather introverted and reluctant to engage with anyone socially – a fairly typical surly teenage boy. Then, when he joined the Marine Corps, my mom remarked over what a wonderful difference life in the service made in his personality – she saw him on his first furlough home (if I recall correctly) and he was outgoing, happy, and confident. Jesse joined the Corps because he wanted to serve his country, and life as a Marine did wonders for his maturity and personal growth.

I will be honest; I moved out of Wisconsin in 2005 and have not seen Jesse very often since then, only occasionally when he and I happened to be back in the Milwaukee area visiting family at the same time. I can't say that I've known him well as an adult. However, I can attest that I have heard from other family members nothing but good things about his personality and his behavior – until, of course, this awful incident occurred. I can also speak to the values he was raised with, which are similar to the ones I was taught as well – the importance of family, loyalty, honesty, and contributing to society in a positive way.

Most of what I have heard of the incident that ended in his friend's death, and its aftermath, I have heard through my mom. She is close with Jesse's mom (as she is with all their sisters) and they speak frequently as far as I know. My mom has frequently remarked on how broken up Jesse is about all of this, how he wishes he could take it back, and that he is determined to serve his time and come out the other side ready to make a positive difference in the world. Knowing how he was raised, how he shares the values of the Corps, and the way my mother's tight-knit family supports each other through hard times and good ones alike, I have every reason to believe that he will not only own up to his mistakes, but also face the consequences as well as take whatever chance he is given to do better.

Thank you for considering the perspectives of his family and friends. We love Jesse and we want the best for him.

Respectfully,

[redacted]

Adrianne Daggett
Tallahassee, Florida

DE 6

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From: Jo Ellen Gonzo

To: Military Judge and whom it may concern

Subj: Letter on behalf of Jesse Bopp

I have known Jesse Bopp since he was a child. Our families have been vacationing together yearly at Camp Nesbit. Family camp is a group of Christian families that come together once a year to enjoy a week in the Upper peninsula of Michigan. I myself have been going to since I was 16.

I have literally watch Jesse grow up over the years. The shy youth, to the awkward preteen to the confidant teenager who knew what he wanted to do with his life. In his teenage years we saw someone who was confidant, caring a great teem player and an emerging leader.

Jesse knew he wanted to serve his country and he wanted to serve as a Marine. He was so excited when he finally enlisted as he headed off to make his dreams a reality. When Jesses parents told us what happened and that his best friend was killed due to a tragic accident I cried. I can only imagine how this torments Jesse daily. I pray for the victim and his family as well as Jesse and his family as they will deal with this for the rest of their lives.

I know Jesse would give anything to change the events of that fateful day. Jesse is a kind and loving person who wanted to serve his country and become a marine but those dreams died the day his friend died. Jesse has the potential to overcome this horrific event. His family and friends are there to support him and we believe with counseling, prayers, education Jesse will be able to become a productive member of society. He will turn this around if given the chance.

I hope you can see the Jesse is not a threat to the community and this was truly an accident. I pray you keep that in mind when sentencing.

Respectfully;
Jo Ellen Gonzo

Ellen K. Kraemer
John J. Kraemer
[redacted]

Phone: [redacted] Re: Cpl. Jesse Bopp

Your Honor,

My name is Ellen Kraemer, and my husband is John Kraemer. We are long-time friends of Jesse Bopp, his sister Delaney and parents Tom and Maureen. John grew up with Jesse's parents beginning in the 1970's and continue to remain close friends. We both were born and live in Wisconsin, Washington County for 20 years and currently live in Fond du Lac County. I work full-time for FIS as a Software Test Analyst and John's caregiver. John is retired, fighting brain cancer with a year in remission. I also have my Licensed Practical Nursing license and work for the WEAVR (Wisconsin Emergency Assistance Volunteer Registry) program, as needed.

We have been a part of Jesse's life for the past 20+ years. He is an honest, hardworking, open-minded, caring individual, who sets life goals and priorities. He has the ability and the ambition to put forth what is needed to reach a goal even when the life path is difficult. Early on in his High School days, Jesse had high regards for the United States Armed Services and set his sights on becoming a United States Marine. He trained regularly, day and night, physically and mentally and often spoke of his goals with excitement and determination. Jesse is the oldest of two children (Delaney) and we have watched them grow into respectful individuals with ethical and moral principles as life guides. They continue to be close as brother and sister. They have been relying on each other to remain positive and keep each other in heart and mind through writing, phone and visitation.

We know that this is not the path Jesse envisioned as a United States Marine. He has lost a friend and fellow Marine which will always carry a heavy load on his heart. To keep in balance, we feel Jesse has the ability and determination to continue to learn and grow regardless of the outcome of this case. He will always have our love and support as a contributing citizen who is willing and able to help others. Jesse is not waiting for the outcome to stop his goal of gaining knowledge, contributing and improving his life even though his path has taken a turn. He has been on a consistent schedule of reading, working, keeping busy and helping whenever possible. We know there are consequences to actions, but we are hoping that you will take into consideration Jesse's willingness to take responsibility, move forward toward a positive lifestyle and approach to his future. We have told him not to look back trying to fix the past, but to look ahead toward the things he is able to change to make a difference for the future while still keeping the memories as guidance. It is a continuous, never-ending effort, day by day, step by step. Thank you for taking the time to read our letter on Jesse's behalf.

Very Respectfully,

Ellen K. Kraemer
John J. Kraemer

Jason J. Kraemer
[redacted]
Phone: [redacted]

Your honor,

I am Jason Kraemer, HEO (Heavy Equipment Operator) for the Milwaukee Fire Department since 2016. As part of this role, I am also a licensed EMT. I am generally responsible for operating my rig on any call my fire station receives. This includes fighting fires and operating any equipment necessary for rescue, emergency and non-emergency response or extinguishing. I am also responsible for maintaining my rig and its equipment in collaboration with other HEO's in my fire station and the department as a whole among other related responsibilities. One of my favorite parts of the job is the Public Relations assignments where we get to talk to kids and connect with the community in our responding territory.

I have known Corporal Jessie Bopp since he was a young child. His parents and family are close family friends with my family. My father attended high school with Jessie's dad. I've spent time with him and his family many times on weekends, evenings and at gatherings.

Since Jessie was a child, he has been an enthusiastic hard worker. He was always willing to pitch in at our family cabin and I can remember him talking about wanting to be in the military from a young age. He wanted to serve his country and develop what is takes to be a soldier. I consider him to have higher than average moral character. I trust him. He comes from a great family with loving and caring parents who supported him through his childhood along with his decision to join the military. He is a good man with a good heart. This tragic situation should not define him.

Very Respectfully,

Jason J. Kraemer

Linda Horning

January 3, 2025

Sir,

My name is Linda Horning, a wife, mother of 4, and grandmother of 14. I am a retired accountant. While I personally have not served in the military, there are several family members who have served.

I am Corporal Jesse Bopp's aunt. I've known him since birth. We enjoy getting together at family functions, and have spent a week together each summer since his birth, at an organized Christian family camp in Upper Michigan. Spending those weeks together at camp I've been able to watched him grow. He has always been a fun, and helpful, cooperative guy. At camp as a youth he participated in all activities, including kitchen and bathroom cleanup duties willingly. Once he turned 18, he became responsible for overseeing and teaching group activities. He has always been one to just chip in where he saw a need, even if he wasn't assigned to it. Jesse is kind, gentle, thoughtful, dependable, and shows much respect for others, and in turn, is respected. He talked about joining the Marines for a long time before he turned 18, and followed that dream. In conversations over the years of his service, he talked about how tough it was in many ways, but saw that as building character and growth, and accepted the challenges.

I understand that Jesse has accepted responsibility for involuntary manslaughter and orders violation. Through conversations with Jesse's parents, and my written correspondence with Jesse since the tragic night in October, 2023, it is clear to me that he carries deep remorse for his actions leading to the death of his friend, Austin. He recognizes that nothing can change the past, and has been working hard to find ways to cope with this burden that he will carry for his entire life. He also recognizes the horrific loss Austin's family and friends are experiencing due to his regretful actions, and that they too, will live with this grief for their lifetimes.

I am confident that Jesse has great rehabilitative potential, as he does not have a criminal background, has remorse for his actions, has learned many life lessons, and has taken ownership of his actions. He knows that I, as well as so many others, will continue to support him thru every stage of this journey, throughout life.

Sincerely yours,

[redacted]

Linda Horning

[redacted]

Nicholas C. Rainey
[redacted]
Phone: [redacted]

Your honor,

My name is Nick Rainey, I work for the United States Department of Agriculture in Kingsford. We work with farmers to put together conservation plans and fund these projects across Dickinson, Iron and Gogebic Counties. My experience with the Military doesn't go any further than my grandfather's service and speaking with a recruiter during lunch in High School. But I know it was very important to Jesse.

I met Jesse when we were kids at a Christian Family Camp called Camp Nesbit in 2008. Every year during the first week of August since, Jesse, myself, and nearly 100 others of all ages spend a week in The Upper Peninsula of Michigan. Jesse was extremely helpful to the older campers, and a role model to the younger ones. He only missed camp due to his responsibilities and obligations within the Military. His absence has been felt by all campers during that time.

As long as I've known Jesse, he has been ambitions, curious, and always willing to help. He had an eye for those that were forgotten by many and took it upon himself to make them feel comfortable. Despite the circumstances I still know this to be true.

Very Respectfully,

Nicholas Charles Rainey

Brigid C. Freitag
[redacted]
Phone: [redacted]

Your honor,

I am writing on behalf of Jesse T. Bopp. I work as the church secretary at Calvary Baptist Church in Menomonee Falls, Wisconsin. I'm a graduate of Dallas Theological Seminary. I am connected with the military only through grandparents, aunts, uncles, and two cousins, including Jesse.

I am one of Jesse T. Bopp's many cousins (our Horning grandparents had twenty-six grandchildren). Since I'm about ten years older than Jesse, I babysat Jesse and his sister a couple times, and I played with them lots when they were kids. Our families lived about twenty minutes from each other. In the last ten years or so, his parents have hosted celebrations for extended family, such as Jesse's leaves from duty.

As for his character and future conduct, I have no worries or concerns. A hard worker, close to his family, and deeply regretful of what happened last fall, he will be a productive member of society whenever he is released. Jesse has always been easy to get along with and willing to participate in games and group events at family get-togethers. I've observed him being a great brother and even treating a family friend like his own sister. Two years ago, I was impressed that he intentionally approached me at a large family party to talk about books he'd been reading. Since last fall, he and I have exchanged several letters, as he has with several other relatives. The letters have built stronger connections than occasional conversations at family parties, and those connections will help him re-integrate into society when he is released. His family has always been unusually close-knit, and our extended family excels at sticking together through difficulties. We will be there for Jesse.

Very respectfully,

[redacted]

Brigid C. Freitag

Gmail E Kopka [redacted]

Jesse Bopp

1 message

Barb Albee [redacted]> Fri, Jan 3, 2025 at 8:47 AM
To: [redacted]
Cc: Mo and Tom Bopp [redacted]

We are writing this letter to let you know that we have known Jesse Bopp since he was a toddler. Jesse has always been kind , considerate and respectful. We belong to a Camp group that has camped together since his Mom was a child. He has always been helpful and great with. Kids and adults. He was so proud to join the marines. As a Vietnam Vet, I strongly feel that this horrible event should not destroy this young man's life anymore than it has. It has already destroyed his friend's life. Jesse is the kind of a person that will go on to to give back to his community. Sincerely, Charles and Barbara Albee
Sent from my iPhone

DE G

Pg 37 of 45

To Whom It May Concern,

I am one of Jesse Bopp's 25 cousins on our side of the family. I grew up celebrating my birthday with Jesse's mom, my Aunt Maureen, because we share the same birthday. We are blessed to have a very large family and always enjoyed spending time over the holidays or at our summer Christian family camp together. Jesse was always happy to help, whether it was in the kitchen with the other grandparents, aunts or uncles, or in the backyard with the other cousins. He always carried himself humbly and with a kind smile. Very similar to his Gram.

I babysat for Jesse and his sister Delany on occasion before I moved out of state. And when I returned home and started a family, the Bopps babysat for our youngest, Henry. Jesse and Henry were into the same things (legos and fixing things around the house with their dads) and he would always make time for him. I would hear about all of the AP classes Jesse took in high school (from his parents of course, as Jesse was never one to brag). And eventually I heard that he had started talking to the Marines at school and was considering enlisting. As a mom, I imagined how hard that would be. But I also knew how Jesse was raised and that his parents were unbelievably proud of their son for making that choice. I also knew that he would be an upstanding Marine and carry on the family name in the services.

Although I have not directly spoken with Jesse over the last year, I know through conversations with his parents that he is and always will be terribly sorry for what he did. It's difficult to even say the words, but my cousin took the like of another person. There is no other way to describe it but a tragedy. My heart breaks for the parents who no longer have their son and I hold them all up in prayer.

I know it was not intentional. I know he immediately accepted responsibility for his actions and has and continues to cooperate with officials to bring justice to this very sad situation. I hope someday he will receive forgiveness and also forgive himself.

And so I fully support my cousin Jesse. He has a huge heart and a bright mind. He is willing to prove his character to not only himself, but to the family who lost their loved one, to his own family, and to the service. I am aware that over the course of the last 14 months he has been very proactive in facilitating positive changes as well as making a healthy routine for himself. To me, that's proof of someone committed to making the best of a situation.

I know I'm not alone in saying that prior to all of this happening, we were all so excited to see what Jesse would do upon graduating. He matured tremendously during his time in the service. And now, we are all just praying he is given another chance once he has served his time and earned his freedom.

Sincerely signed,
Elizabeth Bistan

James M Dekeuster
[redacted]
Phone: [redacted]

Your honor,

I am a retired industrial supply salesman. I am Corporal Bopp's uncle. I have known him his entire life.

My wife and I lived about 30 miles away from him until 5 yrs ago when we moved to Louisville, KY. . We have a close and loving relationship with Corporal Bopp's family and have spent a lot of time together.

Corporal Bopp has always been a responsible person. He worked hard and I watched him grow into a very responsible adult.

Besides family get-togethers, we spent one week together with his family and about 90 other people at a campsite in the Ottawa National forest. Corporal Bopp was always willing to step in where needed to help out. I never heard or seen him willfully harm anyone. He worked very hard to become a Marine. He was very proud be able to serve our country.

Very Respectfully,

[redacted]

James M Dekeuster

Abby L. Horning

[redacted]

Your honor,

My name is Abby Horning. I am a stay at home mother to a five year old girl. Her father and I live on a farm in Pearl City, Illinois.

I am Jesse's cousin. We've known each other since we were very little. I know him to be kind, good natured and hardworking. Although we are close in age, I've always admired the path in life he took and his accomplishments.

I believe that Jesse is a decent man and he has a lot of good things to contribute to society. There's a certain kind of strength in his character that is hard to find these days and I believe it will help him reintegrate into civilian life upon release.

Best regards,

Abby Horning

Joseph E. Horning
[redacted]

[redacted]

Your honor,

My name is Joseph Horning, a lifelong Wisconsin resident and currently working as a broadcast news Senior Producer at WBAY-TV in Green Bay, Wisconsin. I have no affiliations with the military officially, but I do occasionally work with veterans groups in Northeast Wisconsin to do televised segments about programs for veterans in need, such as tiny housing communities being built, or honor flights for War on Terror veterans. I have worked in this market for nine years.

Corporal Jesse Bopp is one of my many cousins. We have somewhere around 26 grandchildren in our family. I am in the middle of the pack, while Jesse was on the younger end. Because of this and our proximity in age, I was frequently looking after him or accompanying him during family events. We are a very close family, and because of the alcoholic nature of my father and my mother being incarcerated, I had various aunts and uncles look after me, including Jesse's parents. I have known him his entire life and like most of our cousins, I saw him as a sibling.

I will admit I did not keep up on Jesse as much as I would have liked in his teenage years, but I still saw him from time to time and always made sure he was doing well. Since his childhood, I have always known him to be of good moral compass and caring about others. He is a good person

Very Respectfully,
Joseph E. Horning & Elisabeth L. Bierstaker
[redacted]

I would love to write this Letter in Support of Cpl Jesse Bopp.

We got to know Jesse and his whole family at a very early age for him, we all went to a Christian Family Camp together, every year since 1962 so I have gone since I was a small child and as I grew up after My Husband and I spent 21 years in the United States Marine Corps we started going as our family began to grow, Jesse was always a very respectful young boy and man, we watched him grow each year, catching frogs, fishing, campfires, he grew into a fine young man. As he got old enough to make his life's decisions, the Marine Corps was what he wanted for his path, my Husband Cahnrad was able to have a long talk with him before he enlisted, on what to expect, on what some of his choices might be, and the pride of being a Marine.

Jesse enlisted and he excelled with the the commedations and awards he recieved reaching rank of Cpl. He has always cared about people , especially his friends and family. What happened in October of 2023 was such a terrible tragic accident. And that is just what it was , and accident, with this event happening we all lost a wonderful young Man, and Marine. It would truly be a shame and also equally tragic to loose another young Man, young Marines life by locking Jesse Bopp up forever or for such a long time he also looses everything. I know and believe he is so remorseful with this tragedy but most of all for his actions which lead to the loss of his friend and fellow Marine. I believe no one is harder on Jesse than Jesse himself.

He has also suffered along with his whole family, and every one who knows and loves him. I believe he is a good young man who being young and inexperienced made a terrible choice that day, it does not make him a terrible person. It did end in a horrific accident that he will live with the rest of his life. As everyone that knows Jesse espically his entire Christian Family Camp are praying for him, and for the loss of his friend and espically for his friends family and all the suffering they have to go through, we are praying for some understanding, and possible forgiveness or maybe just understanding. We are sending our full support to Jesse , let us not loose both of these young Marines.

Thank-you sincerely

Theresa Lee Cagle
Wife of Retired.
GYSGT Cagle Cahnrad

Jennifer T. Garson
[redacted]

Phone: [redacted]

Your honor,

My name is Jennifer Garson, and I am a second-year pharmacy resident at Duke University Hospital in Durham, NC. I graduated with a Doctor of Pharmacy degree from Purdue University before completing a first-year residency focused in clinical pharmacy practice. I am now specializing in health-system pharmacy administration and leadership at Duke Health, and I am concurrently a Masters student at the University of North Carolina Eshelman School of Pharmacy. I have no direct affiliations with the military.

I am related to Corporal Bopp through a common cousin and would also call him a friend. I've known Corporal Bopp for over 20 years, since I was 4 or 5 years old – we grew up attending a family camp together every summer. During our weeks at camp, we spent a lot of time together doing activities and sharing meals. My earliest memories of Corporal Bopp include the two of us catching frogs, fishing, and playing frisbee golf. We also grew through teenage years and into adulthood together among a group of about 5 others our age – all of whom I consider family.

Every time I think of a memory of Corporal Bopp, his face appears in my mind with a smile – he smiled often and has always been someone who spreads joy to others. Corporal Bopp has been kind, gentle, and reliable for the entirety of our relationship. This was evident in the way he contributed to camp – always willing to stop and lend a hand. I can say with confidence that Corporal Bopp is good, and that any harm he caused is accidental. I appreciate his friendship and comradery, as well as his dedication to serving our country. If I can provide any further information, please do not hesitate to contact me.

Very Respectfully,

Jennifer T. Garson, PharmD

From: [redacted]
To: Rehak Maj Joshua A
Subject: [Non-DoD Source] Re: Letter in support of Cpl Jesse Bopp
Date: Sunday, January 5, 2025 6:03:36 PM

Tessa B. Horning
[redacted]

Your honor,
My name is Tessa Horning. I am a Registered nurse at Rockford Gastroenterology Associates in Rockford IL.

I am Jesse's first cousin. I have known him since his birth. I am his older cousin, so I was provided with the opportunity to watch him grow into the person he is today. I am and always will be proud of his accomplishments.

I have always known Jesse as a kind, well mannered timid young man.

In my opinion, Jesse is a stand up man, who would not harm a fly. I whole heartedly believe he would be a productive part of society if given the chance.

Regards,
Tessa B. Horning

Julie A Hilmer
[redacted]
Phone: [redacted]

Your honor,

I am pleased to write a letter of support for Corporal Bopp. I am a family friend of the Bopps. I work as tax accountant specializing in individual and small business income tax preparation. I have no direct affiliations with the military. My exposure to the military has been limited to having 2 brothers-in-law who were "lifers" in the navy and various friends and acquaintances whose children have joined the armed forces.

I first met Corporal Bopp when he was about 3 years old. He used to play with my son while Jesse's mother and I waited to pick up their older sisters from school. Our families became close friends. Corporal Bopp and my son often played together at our home; we went on outings together to the park, zoo and museums; we vacationed together in Florida. In all of the time we have spent together, Corporal Bopp has always been adventurous, fun-loving, cooperative and respectful. It was a pleasure to spend time with him and he is always welcome in our home.

As he neared adulthood, Corporal Bopp was determined to join the Marine Corps. He welcomed the opportunity to test himself physically and mentally, and to serve his county. On visits home, he spoke with pride of the skills he has learned and the places he has seen. He was looking forward to converting some of those skills to a relevant civilian job.

There is no question that the death of his friend and fellow Marine is a tragedy for which Corporal Bopp is profoundly sorry. He will carry the guilt of that incident with him all of his life. I feel confident that he will spend the rest of his life doing what he can to atone. Now, and upon his release, he has the support of a large community of family and friends to help him live a successful, purpose driven life.

Very Respectfully,

[redacted]

/ Julie A Hilmer

Sir,

I first want to express how sorry I am. I know that I will never fully understand the pain that the Schwenk family feels. I am sorry that I caused them that pain, pain that they should have never felt. Austin should still be here today. If I could change places with him, I would. I cannot forgive myself for Austin's death, so I will not ask that anyone forgive me either. But I will strive every day to be a better man and pray that one day I can be forgiven.

I grew up in New Berlin, WI, with my parents and older sister, Delany, who is five years older than me. Growing up, I went to Catholic schools and was active in sports and extracurricular activities, including the Boy Scouts and the Rotary Club in high school. I always wanted to give back to my community in any way that I could and knew that I wanted to continue to be of service to others in my job. I knew in high school that I wanted to enlist in the Marine Corps, in part to follow in my family's footsteps and in part to continue helping others. Both of my grandfathers served in the military, my father's dad serving in WWII and becoming a Prisoner of War, and my mother's dad serving in the Korean War. Along with them, I have other family members who have served our country, and they inspired me to join.

I enlisted through the Delayed Entry Program in 2018 and shipped off to boot camp at eighteen (18) years old. Following graduation and my follow-on schools, I executed orders to 6th Marine Regiment and later to 2d Battalion, 6th Marines. I had the chance to participate in multiple field exercises and deployed for several months from Northern Europe to Africa. When I returned in late 2022, I remained with 2d Battalion, 6th Marines, knowing that my time in service would be coming to an end. I took the opportunity to mentor as many junior Marines as I could to ensure that I would leave the Marine Corps and my unit better in some way. Austin was one of my junior Marines.

18 October 2023 is a day that will be burned into my mind for the rest of my life. I have thought about that night ever since. I wish I could back in time and change everything. I wish I would have brought my firearm back to my friend's when I realized I had brought it to the barracks; I wish I wouldn't have brought it into the barracks; I wish I could take Austin's place. I know I cannot change what I have

done, but I know I can try to affect change moving forward. I plan on using this situation to educate others on the importance of firearm safety; how a single moment in time can change the lives of everyone. Had I executed firearm safety that night, this would have never happened. I want to be of service to others moving forward in life and I will do anything that I can to do good in the world and give back.

I am sorry that Austin will not be able celebrate holidays or birthdays or marriages or births of children with his loved ones. I wish he could share in those special moments. I will always feel pain and sadness knowing that he cannot be with the ones that he loved most around the holidays or for his siblings' birthdays.

I am sorry to Austin's brother and sister especially. I cannot imagine how hard it is or how difficult it has been for both of you. I know that my sisters are struggling, but that does not compare to the struggles that you will have for the rest of your life without Austin.

Austin was a good Marine. He was smart and motivated. He got along with everybody. He was always positive and never had issues with anyone in the unit. I lost my friend and Marine that day, and that should never have happened. I remember taking him to a BBQ when he first checked into the unit and his promotion to Lance Corporal. Those memories remind me how important Austin was to us and how much more he would have given the Marine Corps.

I am also sorry to my unit and the Marines that were present when Austin died especially Corporal House, Corporal Metcalf, and Lance Corporal Dickinson. This caused them pain that they should never have experienced.

I cannot make sense of any of this for anyone because Austin was such a good guy and never deserved any of this. I hope this letter can at least help bring you some closure and healing. No matter what my punishment is, the worst thing for me is that I have to live with this and that I'll never be able to tell him how sorry I am.

Appellate Exhibits

NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

U N I T E D S T A T E S v. BOPP, Jesse T. Cpl/E-4 USMC	TRIAL MANAGEMENT ORDER 20 Mar 24

1. **Trial Dates and Milestones.** The following are due on or before **2359**[i] on the ordered date:

a. Arraignment (and appointment of victim's designee if applicable)	**5 Mar 24**
b. Defense request for discovery	15 Mar 24
c. Government disclosure obligations/written response to the Defense request for discovery[ii]	25 Mar 24
d. Defense reciprocal disclosure obligations/motions to compel discovery[iii]	4 Apr 24
e. Government response to defense motion to compel discovery	11 Apr 24
f. Discovery Status 39(a)[iv]	**16 Apr 24**
g. Expert consultant request (any source)	25 Mar 24
h. Written response for Expert Consultant Request	1 Apr 24
i. Motions to compel expert consultation.	4 Apr 24
j. Government Response to motion to compel expert consultation.	11 Apr 24
k. Expert Consultant 39(a)[v]	**16 Apr 24**
l. Article 39a, If Necessary	**6-10 May 24**
m. Defense request for expert witness	15 May 24
n. Notice pursuant to M.R.E.s 404(b), 412, 413(b), 414(b)	15 May 24
o. Government response to Defense request for expert witness	22 May 24
p. Defense motion to compel expert witness	30 May 24
q. Other Motions filed[vi]*	30 May 24
r. Government response to motion to compel expert witness	6 Jun 24
s. Responses to motions*	12 Jun 24
t. Written notice of certain defenses[vii]	16 Jun 24
u. Written notice of pleas and forum[viii]*	16 Jun 24
v. Article 39(a) Experts/Other Motions	**17 Jun 24**
w. Declaration of expert witness and reciprocal discovery[ix]*	10 Jul 24
x. Motions filed	31 Jul 24
y. Motions responses	7 Aug 24
z. Article 39(a) Reciprocal Discovery/Daubert	**12 Aug 24**
aa. Final pretrial matters[x]*	12 Sep 24

Appellate Exhibit _____
Page 1 of 3

ab. Article 39(a), Pre-Trial Status Conference **26 Sep 24**

ac. Trial Dates at Camp Lejeune, NC **2-16 October 2024**

2. Timeliness. A party shall seek leave of court, prior to the deadline, if it anticipates the need to make a notice or filing after the ordered milestone. If a continuance is necessary, counsel will seek relief as soon as possible.

3. Victims' Legal Counsel (VLC) and other Non-Party Counsel. VLC and other non-party counsel shall file a notice of appearance with the court, stating the court circuit, applicable case caption, name of the respective client (using initials only if the client is a minor), and name, rank, address, phone number and email address of the counsel. The notice shall contain a brief statement as to the qualifications to practice and oath status of the counsel. The notice must be served on all parties, and prior to any 39(a) session at which the VLC desires to be heard. VLC and other non-party counsel's appearance and filings must be filed in accordance with this Order's milestones, including responses to motions upon which the counsel desires to be heard, and in consideration of the Circuit Rules. Failure to comply with this Order will constitute waiver by the VLC or other non-party counsel's right to be heard, subject to a good cause determination by the Court.

So **ORDERED** this 16th day of April, 2024.

WORKMAN.ADAM.J.12 Digitally signed by WORKMAN.ADAM.J. [redacted] Date: 2024.04.16 09:48:25 -04'00'

Military Judge

*Filed with the Clerk of Court and served on counsel consistent with the NMCTJ Uniform Rules. Trial counsel is responsible for service upon named victims in the absence of a victims' legal counsel where such service is necessary.

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[i] All times are Eastern Time.

[ii] Discovery obligations are continuous. R.C.M. 701 & 703 disclosures; papers accompanying the referred charges; convening and amending orders; statements in the possession of the trial counsel; names and addresses/contact information of witnesses the trial counsel intends to call in the prosecution's case-in-chief and to rebut certain defenses when notified; notice of records of prior convictions of the accused to be offered on the merits; sentencing information when required; and evidence that is favorable to the defense; notice of any immunity or leniency to prosecution witnesses (M.R.E. 301(c)(2)). Disclosure of evidence seized from or the property of the accused, if any (M.R.E. 311(d)(1)). Disclosure of evidence of prior identification of the accused, if any (M.R.E. 321(c)(1)). Disclosure of relevant statements made by the accused, if any, is required prior to arraignment (M.R.E. 304(d)(1)).

[iii] Discovery obligations are continuous. Upon request of trial counsel, the defense shall permit the trial counsel to inspect the documents, tangible objects and relevant reports prepared by expert witnesses that it intends to introduce as evidence in its case in chief or of relevant reports prepared by expert witnesses the defense intends to call at trial upon Government compliance with such requests made by the defense. (R.C.M. 701 (b)(3)&(4)).

[iv] This 39(a) is to address any outstanding discovery issues following the Government response to the Defense discovery request. This 39(a) will only be canceled if both parties, in writing, indicate to the Court that all discovery obligations have been complied with and parties are in ***receipt*** of the requested discovery. Otherwise both parties must be prepared to litigate the outstanding discovery issues.

[v] This 39(a) is to address any defense request for an expert consultant that has been denied by the convening authority. This 39(a) will only be canceled if both parties, in writing, indicate to the Court that all expert consultant issues have been resolved.

[vi] Counsel will litigate all ripe motions on this motions date.
[vii] The notice will include the written summary of the expected testimony from the expert witness in accordance with R.C.M. 703(d)(3)(A).
[viii] Particulars of defenses of alibi, innocent ingestion, lack of mental responsibility, or the defense's intent to introduce expert testimony as to the accused's mental condition. (R.C.M. 701(b)(2)).
[ix] Note that forum selections of judge alone or members with enlisted representation must be personally signed by the accused or declared on the record.
[x] Final Pretrial Matters (FPTM) will include: member questionnaires, requests for judicial notice, voir dire, witness list with units, company sized unit, proposed instructions, cleansed charge sheet, findings and sentencing worksheets, and any remaining motions in *limine*. Notice will be provided to the Court and opposing counsel when a party intends the use of electronic media or to take testimony by telephone or video-conferencing. Also required to be included in the FPTM, ***both Trial and Defense Counsel will submit a written assertion that their witnesses have been contacted, are aware of the trial dates and uniform, and have travel arranged, if necessary.***

Appellate Exhibit _____
Page 3 of 3

NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES v. BOPP, Jesse T. Cpl/E-4 USMC	TRIAL MANAGEMENT ORDER 20 Mar 24

1. **Trial Dates and Milestones.** The following are due on or before 2359[i] on the ordered date:

a. Arraignment (and appointment of victim's designee if applicable)	**5 Mar 24**
b. Defense request for discovery	15 Mar 24
c. Government disclosure obligations/written response to the Defense request for discovery[ii]	25 Mar 24
d. Defense reciprocal disclosure obligations/motions to compel discovery[iii]	4 Apr 24
e. Government response to defense motion to compel discovery	11 Apr 24
f. Discovery Status 39(a)[iv]	**16 Apr 24**
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l. Article 39a, If Necessary	**6-10 May 24**
m. Defense request for expert witness	15 May 24
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p. Defense motion to compel expert witness	30 May 24
q. Other Motions filed[vi]*	30 May 24
r. Government response to motion to compel expert witness	6 Jun 24
s. Responses to motions*	12 Jun 24
t. Written notice of certain defenses[vii]	16 Jun 24
u. Written notice of pleas and forum[viii]*	16 Jun 24
v. Article 39(a) Experts/Other Motions	**17 Jun 24**
w. Declaration of expert witness and reciprocal discovery[ix]*	10 Jul 24
x. Motions filed	31 Jul 24
y. Motions responses	7 Aug 24
z. Article 39(a) Reciprocal Discovery/Daubert	**12 Aug 24**
aa. Final pretrial matters[x]*	12 Sep 24

Appellate Exhibit ____
Page 1 of 3

ab. **Article 39(a), Pre-Trial Status Conference** **26 Sep 24**

ac. **Trial Dates at Camp Lejeune, NC** **16-30 October 2024**

2. Timeliness. A party shall seek leave of court, prior to the deadline, if it anticipates the need to make a notice or filing after the ordered milestone. If a continuance is necessary, counsel will seek relief as soon as possible.

3. Victims' Legal Counsel (VLC) and other Non-Party Counsel. VLC and other non-party counsel shall file a notice of appearance with the court, stating the court circuit, applicable case caption, name of the respective client (using initials only if the client is a minor), and name, rank, address, phone number and email address of the counsel. The notice shall contain a brief statement as to the qualifications to practice and oath status of the counsel. The notice must be served on all parties, and prior to any 39(a) session at which the VLC desires to be heard. VLC and other non-party counsel's appearance and filings must be filed in accordance with this Order's milestones, including responses to motions upon which the counsel desires to be heard, and in consideration of the Circuit Rules. Failure to comply with this Order will constitute waiver by the VLC or other non-party counsel's right to be heard, subject to a good cause determination by the Court.

So **ORDERED** this 22nd day of March, 2022.

WORKMAN.ADA M.J. [redacted]
Digitally signed by WORKMAN.ADAM.J. [redacted]
Date: 2024.03.22 10:57:21 -04'00'

Military Judge

*Filed with the Clerk of Court and served on counsel consistent with the NMCTJ Uniform Rules. Trial counsel is responsible for service upon named victims in the absence of a victims' legal counsel where such service is necessary.

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[1] All times are Eastern Time.

[2] Discovery obligations are continuous. R.C.M. 701 & 703 disclosures: papers accompanying the referred charges; convening and amending orders; statements in the possession of the trial counsel; names and addresses/contact information of witnesses the trial counsel intends to call in the prosecution's case-in-chief and to rebut certain defenses when notified; notice of records of prior convictions of the accused to be offered on the merits; sentencing information when required; and evidence that is favorable to the defense; notice of any immunity or leniency to prosecution witnesses (M.R.E. 301(c)(2)). Disclosure of evidence seized from or the property of the accused, if any (M.R.E 311(d)(1)). Disclosure of evidence of prior identification of the accused, if any (M.R.E. 321(c)(1)) Disclosure of relevant statements made by the accused, if any, is required prior to arraignment (M.R.E. 304(d)(1)).

[3] Discovery obligations are continuous. Upon request of trial counsel, the defense shall permit the trial counsel to inspect the documents, tangible objects and relevant reports prepared by expert witnesses that it intends to introduce as evidence in its case in chief or of relevant reports prepared by expert witnesses the defense intends to call at trial upon Government compliance with such requests made by the defense. (R.C.M. 701 (b)(3)&(4)).

[4] This 39(a) is to address any outstanding discovery issues following the Government response to the Defense discovery request. This 39(a) will only be canceled if both parties, in writing, indicate to the Court that all discovery obligations have been complied with and parties are in ***receipt*** of the requested discovery. Otherwise both parties must be prepared to litigate the outstanding discovery issues.

[5] This 39(a) is to address any defense request for an expert consultant that has been denied by the convening authority. This 39(a) will only be canceled if both parties, in writing, indicate to the Court that all expert consultant issues have been resolved.

[vi] Counsel will litigate all ripe motions on this motions date.
[vii]The notice will include the written summary of the expected testimony from the expert witness in accordance with R.C.M. 703(d)(3)(A).
[viii] Particulars of defenses of alibi, innocent ingestion, lack of mental responsibility, or the defense's intent to introduce expert testimony as to the accused's mental condition. (R.C.M. 701(b)(2))
[ix]Note that forum selections of judge alone or members with enlisted representation must be personally signed by the accused or declared on the record.
[x]Final Pretrial Matters (FPTM) will include: member questionnaires, requests for judicial notice, voir dire, witness list with units, company sized unit, proposed instructions, cleansed charge sheet, findings and sentencing worksheets, and any remaining motions in *limine*. Notice will be provided to the Court and opposing counsel when a party intends the use of electronic media or to take testimony by telephone or video-conferencing. Also required to be included in the FPTM, ***both Trial and Defense Counsel will submit a written assertion that their witnesses have been contacted, are aware of the trial dates and uniform, and have travel arranged, if necessary.***

NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

U N I T E D S T A T E S v. BOPP, Jesse T. Cpl/E-4 USMC	TRIAL MANAGEMENT ORDER 2 May 24

1. **Trial Dates and Milestones.**[i] The following are due on or before **2359**[ii] on the ordered date:

a. Arraignment (and appointment of victim's designee if applicable)	**5 Mar 24**
b. Defense request for discovery	15 Mar 24
c. Government disclosure obligations/written response to the Defense request for discovery[iii]	25 Mar 24
d. Defense reciprocal disclosure obligations/motions to compel discovery[iii]	4 Apr 24
e. Government response to defense motion to compel discovery	11 Apr 24
f. Discovery Status 39(a)[iv]	**16 Apr 24**
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w. Declaration of expert witness and reciprocal discovery[ix]*	10 Jul 24
x. Motions filed	31 Jul 24
y. Motions responses	7 Aug 24
z. Article 39(a) Reciprocal Discovery/Daubert	**12 Aug 24**
aa. Final pretrial matters[x]*	12 Sep 24

Appellate Exhibit _
Page 1 of 3

ab. Article 39(a), Pre-Trial Status Conference **26 Sep 24**

ac. Trial Dates at Camp Lejeune, NC **4-18 November 2024**

2. Timeliness. A party shall seek leave of court, prior to the deadline, if it anticipates the need to make a notice or filing after the ordered milestone. If a continuance is necessary, counsel will seek relief as soon as possible.

3. Victims' Legal Counsel (VLC) and other Non-Party Counsel. VLC and other non-party counsel shall file a notice of appearance with the court, stating the court circuit, applicable case caption, name of the respective client (using initials only if the client is a minor), and name, rank, address, phone number and email address of the counsel. The notice shall contain a brief statement as to the qualifications to practice and oath status of the counsel. The notice must be served on all parties, and prior to any 39(a) session at which the VLC desires to be heard. VLC and other non-party counsel's appearance and filings must be filed in accordance with this Order's milestones, including responses to motions upon which the counsel desires to be heard, and in consideration of the Circuit Rules. Failure to comply with this Order will constitute waiver by the VLC or other non-party counsel's right to be heard, subject to a good cause determination by the Court.

So **ORDERED** this 2nd day of May, 2024.

WORKMAN.ADAM.J.12 Digitally signed by WORKMAN.ADAM.J. Date: 2024.05.02 15:29:11 -04'00'

Military Judge

*Filed with the Clerk of Court and served on counsel consistent with the NMCTJ Uniform Rules. Trial counsel is responsible for service upon named victims in the absence of a victims' legal counsel where such service is necessary.

[I] All times are Eastern Time.

[II] Discovery obligations are continuous. R.C.M 701 & 703 disclosures: papers accompanying the referred charges; convening and amending orders; statements in the possession of the trial counsel; names and addresses/contact information of witnesses the trial counsel intends to call in the prosecution's case-in-chief and to rebut certain defenses when notified; notice of records of prior convictions of the accused to be offered on the merits, sentencing information when required; and evidence that is favorable to the defense; notice of any immunity or leniency to prosecution witnesses (M.R.E. 301(c)(2)). Disclosure of evidence seized from or the property of the accused, if any (M R.E. 311(d)(1)). Disclosure of evidence of prior identification of the accused, if any (M.R.E. 321(c)(1)). Disclosure of relevant statements made by the accused, if any, is required prior to arraignment (M.R.E. 304(d)(1)).

[III] Discovery obligations are continuous. Upon request of trial counsel, the defense shall permit the trial counsel to inspect the documents, tangible objects and relevant reports prepared by expert witnesses that it intends to introduce as evidence in its case in chief or of relevant reports prepared by expert witnesses the defense intends to call at trial upon Government compliance with such requests made by the defense. (R.C.M. 701 (b)(3)&(4)).

[IV] This 39(a) is to address any outstanding discovery issues following the Government response to the Defense discovery request. This 39(a) will only be canceled if both parties, in writing, indicate to the Court that all discovery obligations have been complied with and parties are in ***receipt*** of the requested discovery. Otherwise both parties must be prepared to litigate the outstanding discovery issues.

[V] This 39(a) is to address any defense request for an expert consultant that has been denied by the convening authority. This 39(a) will only be canceled if both parties, in writing, indicate to the Court that all expert consultant issues have been resolved.

[vi] Counsel will litigate all ripe motions on this motions date.
[vii]The notice will include the written summary of the expected testimony from the expert witness in accordance with R.C.M. 703(d)(3)(A).
[viii] Particulars of defenses of alibi, innocent ingestion, lack of mental responsibility, or the defense's intent to introduce expert testimony as to the accused's mental condition. (R.C.M. 701(b)(2)).
[ix]Note that forum selections of judge alone or members with enlisted representation must be personally signed by the accused or declared on the record.
[x]Final Pretrial Matters (FPTM) will include: member questionnaires, requests for judicial notice, voir dire, witness list with units, company sized unit, proposed instructions, cleansed charge sheet, findings and sentencing worksheets, and any remaining motions in *limine*. Notice will be provided to the Court and opposing counsel when a party intends the use of electronic media or to take testimony by telephone or video-conferencing. Also required to be included in the FPTM, ***both Trial and Defense Counsel will submit a written assertion that their witnesses have been contacted, are aware of the trial dates and uniform, and have travel arranged, if necessary.***

Appellate Exhibit
Page 3 of 3

NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

U N I T E D S T A T E S v. BOPP, Jesse T. Cpl/E-4 USMC	TRIAL MANAGEMENT ORDER 8 Mar 24

1. **Trial Dates and Milestones.** The following are due on or before 2359[i] on the ordered date:

a. Arraignment (and appointment of victim's designee if applicable)	**5 Mar 24**
b. Defense request for discovery	15 Mar 24
c. Government disclosure obligations/written response to the Defense request for discovery[ii]	25 Mar 24
d. Defense reciprocal disclosure obligations/motions to compel discovery[iii]	4 Apr 24
e. Government response to defense motion to compel discovery	11 Apr 24
f. Discovery Status 39(a)[iv]	**16 Apr 24**
g. Notice pursuant to M.R.E.s 404(b), 412, 413(b), 414(b)	TBD
h. Expert consultant request (any source)	TBD
i. Written response for Expert Consultant Request	TBD
j. Motions to compel expert consultantion.	TBD
k. Government Response to motion to compel expert consultation.	TBD
l. **Expert Consultant 39(a)[v]**	TBD
m. Written notice of certain defenses[vi]	TBD
n. Written notice of pleas and forum[vii]*	TBD
o. Defense request for expert witness	TBD
p. Government response to Defense request for expert witness	TBD
q. Defense motion to compel expert witness	TBD
r. Other Motions filed[viii]*	TBD
s. Government response to motion to compel expert witness	TBD
t. Responses to motions*	TBD
u. Article 39(a)	**TBD**
v. Declaration of expert witness and reciprocal discovery[ix]*	TBD
w. Final pretrial matters[x]*	TBD
x. **Article 39(a), if necessary**	**TBD**
y. Trial Dates at Camp Lejeune, NC	**TBD**

Appellate Exhibit _____
Page 1 of 3

2. Timeliness. A party shall seek leave of court, prior to the deadline, if it anticipates the need to make a notice or filing after the ordered milestone. If a continuance is necessary, counsel will seek relief as soon as possible.

3. Victims' Legal Counsel (VLC) and other Non-Party Counsel. VLC and other non-party counsel shall file a notice of appearance with the court, stating the court circuit, applicable case caption, name of the respective client (using initials only if the client is a minor), and name, rank, address, phone number and email address of the counsel. The notice shall contain a brief statement as to the qualifications to practice and oath status of the counsel. The notice must be served on all parties, and prior to any 39(a) session at which the VLC desires to be heard. VLC and other non-party counsel's appearance and filings must be filed in accordance with this Order's milestones, including responses to motions upon which the counsel desires to be heard, and in consideration of the Circuit Rules. Failure to comply with this Order will constitute waiver by the VLC or other non-party counsel's right to be heard, subject to a good cause determination by the Court.

So **ORDERED** this_____ day of _____, 20__.

WORKMAN.ADAM.[redacted] Digitally signed by WORKMAN.ADAM.[redacted]
Date: 2014.03.11 12:35:08 -04'00'

Military Judge

*Filed with the Clerk of Court and served on counsel consistent with the NMCTJ Uniform Rules. Trial counsel is responsible for service upon named victims in the absence of a victims' legal counsel where such service is necessary.

---

[i] All times are Eastern Time.

[ii] Discovery obligations are continuous. R.C.M. 701 & 703 disclosures: papers accompanying the referred charges; convening and amending orders; statements in the possession of the trial counsel; names and addresses/contact information of witnesses the trial counsel intends to call in the prosecution's case-in-chief and to rebut certain defenses when notified: notice of records of prior convictions of the accused to be offered on the merits: sentencing information when required; and evidence that is favorable to the defense; notice of any immunity or leniency to prosecution witnesses (M.R E. 301(c)(2)). Disclosure of evidence seized from or the property of the accused, if any (M.R.E. 311(d)(1)). Disclosure of evidence of prior identification of the accused, if any (M.R.E. 321(c)(1)). Disclosure of relevant statements made by the accused. if any. is required prior to arraignment (M.R.E. 304(d)(1)).

[iii] Discovery obligations are continuous. Upon request of trial counsel. the defense shall permit the trial counsel to inspect the documents. tangible objects and relevant reports prepared by expert witnesses that it intends to introduce as evidence in its case in chief or of relevant reports prepared by expert witnesses the defense intends to call at trial upon Government compliance with such requests made by the defense. (R.C.M. 701 (b)(3)&(4)).

[iv] This 39(a) is to address any outstanding discovery issues following the Government response to the Defense discovery request. This 39(a) will only be canceled if both parties, in writing, indicate to the Court that all discovery obligations have been complied with and parties are in ***receipt*** of the requested discovery. Otherwise both parties must be prepared to litigate the outstanding discovery issues.

[v] This 39(a) is to address any defense request for an expert consultant that has been denied by the convening authority. This 39(a) will only be canceled if both parties, in writing, indicate to the Court that all expert consultant issues have been resolved.

[vi] Particulars of defenses of alibi, innocent ingestion, lack of mental responsibility, or the defense's intent to introduce expert testimony as to the accused's mental condition. (R.C.M. 701(b)(2)).

[vii] Note that forum selections of judge alone or members with enlisted representation must be personally signed by the accused or declared on the record.

[viii] Counsel will litigate all ripe motions on this motions date.

[N]The notice will include the written summary of the expected testimony from the expert witness in accordance with R.C.M. 703(d)(3)(A).

[O]Final Pretrial Matters (FPTM) will include: member questionnaires, requests for judicial notice, voir dire, witness list with units, company sized unit, proposed instructions, cleansed charge sheet, findings and sentencing worksheets, and any remaining motions in *limine*. Notice will be provided to the Court and opposing counsel when a party intends the use of electronic media or to take testimony by telephone or video-conferencing. Also required to be included in the FPTM. ***both Trial and Defense Counsel will submit a written assertion that their witnesses have been contacted, are aware of the trial dates and uniform, and have travel arranged, if necessary.***

Appellate Exhibit _____
Page 3 of 3

NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT MARTIAL

UNITED STATES v. Jesse T. Bopp Corporal (E-4) U.S. Marine Corps	GENERAL COURT-MARTIAL VICTIMS' LEGAL COUNSEL NOTICE OF APPEARANCE Date: 30 January 2024

1. Pursuant to Rule 36.1 of the Uniform Rules of Practice Before Navy-Marine Corps Courts-Martial (Uniform Rules) and Rule 36.1a of the Eastern Judicial Circuit Rules of Practice (EJC Rules), I, Lieutenant Colonel Stacy M. Allen, USMC, hereby provide notice to the Military Judge of my appearance on behalf of Mr. Robert Schwenk Jr. and Mrs. Kassandra Christison. My office address, phone number, and e-mail address are: Victims' Legal Counsel Organization, 701 S Courthouse Road, Arlington, Virginia 22204, (571) 465-6858, and stacy.allen@usmc.mil.

2. I have been detailed as the Victims' Legal Counsel for the above named victim in this case by the Chief Victims' Legal Counsel of the Marine Corps, Colonel Iain D. Pedden. I am qualified and certified under Article 27(b) and sworn under Article 42(a) of the Uniform Code of Military Justice. I have not acted in any disqualifying manner.

3. I am aware of the standards of professional conduct required of counsel practicing in Navy-Marine Corps courts-martial as contained in Judge Advocate General Instruction 5803.1E. I certify that I am not now, nor have I ever been, de-certified or suspended from practice in Navy-Marine Corps courts-martial by the Judge Advocate General of the Navy.

4. I have reviewed and am familiar with the Uniform Rules of Practice for the Navy-Marine Corps Trial Judiciary and the Eastern Judicial Circuit Rules of Practice.

5. My clients have limited standing as the Article 6b designees for the decedent in this court-martial, and they reserve the right to exercise those rights through counsel as needed.

[redacted]

S. M. ALLEN
Lieutenant Colonel, U.S. Marine Corps
Victims' Legal Counsel

****

Certificate of Service

I hereby attest that a copy of the foregoing notice of appearance was served on the court and counsel on 30 January 2024.

[redacted]

S. M. ALLEN
Lieutenant Colonel, U.S. Marine Corps
Victims' Legal Counsel

AE 11
Pg 2 of 2

DEPARTMENT OF THE NAVY
MARINE CORPS OFFICE OF SPECIAL TRIAL COUNSEL - MCB CAMP LEJEUNE
MARINE CORPS BASE CAMP LEJEUNE
PSC BOX 20010
CAMP LEJEUNE, NC 28542-0010

5811
OSTC
6 DEC 23

From: Special Trial Counsel
To: Commanding Officer, 2d Battalion 6th Marines

Subj: REQUEST FOR EXCLUDABLE DELAY IN THE CASE OF UNITED STATES V. CORPORAL JESSE T. BOPP, USMC

Ref: (a) Rules for Courts-Martial 707
(b) Article 10, UCMJ
(c) 72 Hour Memo dtd 19 October 2023

Encl: (1) USACIL Emails from 28Nov23

1. This request is submitted in accordance with Rule 707(c)(1) of reference (a), which provides you the authority to grant pretrial delay prior to referral of a courts-martial. Reasons for granting pretrial delay include, but are not limited to, providing sufficient time to secure evidence, as well as to prepare for trial.

2. On 19 October 2023, you ordered Corporal Jesse T. Bopp, USMC ("the Accused") into pretrial confinement in accordance with reference (c). This triggered the Accused's speedy trial rights under reference (a) and (b). The Accused was retained in pretrial confinement on 23 October 2023 after the Initial Review Officer determined less severe forms of restraint had been considered and that less severe forms of restraint are inadequate. On 29 November 2023, charges were preferred against the accused for violations of the UCMJ Articles 92, 118, and 119. To date, the Defense has not demanded a speedy trial.

3. Per enclosure (1), multiple evidentiary items have been sent to the United States Army Criminal Investigations Laboratory (USACIL) for forensic testing and analysis. These items accused DNA swabs of the accused, gunshot residue test kits, the murder weapon, the phone and laptop of the victim, and other items. USACIL Physical Science Technician, Kelly Couey, has estimated that these items will not be completed by USACIL for at least 30 days from the date the items were received. All items were received at the lab on 28 November 2023.

AE 111
Pg 1 of 14

Subj: REQUEST FOR EXCLUDABLE DELAY IN THE CASE OF UNITED STATES V. CORPORAL JESSE T. BOPP, USMC

4. The Office of Special Trial Counsel requests that all pretrial delay from 28 November 2023 (inclusive) through 28 December 2023 (inclusive), a period of 30 days, be excluded in accordance with reference (a).

5. The point of contact in this matter is Major Jason Samuel, Special Trial Counsel Team Leader, at (910) 451-9725 or via email at jason.d.samuel.mil@usmc.mil.

[redacted]

J. D. SAMUEL

AE 111
Pg 2 of 14

Subj: REQUEST FOR EXCLUDABLE DELAY IN THE CASE OF UNITED STATES V. CORPORAL JESSE T. BOPP, USMC

From: Commanding Officer, 2d Battalion 6th Marines
To: Special Trial Counsel

1. Your request is:

a. JRA GRANTED. All pretrial delay from 28 November 2023 (inclusive) to 28 December 2023 (inclusive), a period of 30 days, is excluded in accordance with reference (a).

b. _____ GRANTED IN PART, DENIED IN PART. All pretrial delay from _____2023 (inclusive) until _____ (inclusive), a period of _____ days, is excluded in accordance with reference (c).

c. _____ DENIED.

[redacted]

J. R. ARMSTRONG
LtCol, U.S. Marine Corps
Commanding Officer

AE 111
Pg 3 of 14

From: Robbins, Megan
To: Samuel Maj Jason D
Subject: FW: Pre-submission Request - [UNCLASSIFIED - 2023-11-28T19:01:52.358Z]
Date: Tuesday, November 28, 2023 2:15:43 PM

Jason,

Below is email from USACIL about the timeline.

Megan Robbins
Special Agent
NCIS Camp Lejeune
1250G Birch Street
Cell: [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Sent: Tuesday, November 28, 2023 2:02 PM
To: Robbins, Megan <megan.robbins@ncis.navy.mil>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-28T19:01:52.358Z]

UNCLASSIFIED

SA Robbins,

We have all of the evidence at the lab now and I'm getting ready to submit them out to the branches (hopefully tomorrow). I just wanted to inform you that my Branch Chief spoke with our Digital Evidence group and we do not think that the digital evidence will be able to make the 30 day deadline, due to how they work and how time consuming electronics can be.

Once the other cases have been assigned in the branches, the assigned examiner will be able to give you a better idea of how long the testing will take. However, the case has been marked an expedite in our system.

Thank you!

Kelli Couey
Physical Science Technician
US Army Criminal Investigation Laboratory
4930 North 31st Street
Forest Park, GA 30297-5205
Email: Kelli.j.couey.civ@army.mil

UNCLASSIFIED

From: Robbins, Megan <megan.robbins@ncis.navy.mil>
Sent: Wednesday, November 22, 2023 12:56 PM
To: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Subject: Pre-submission Request - [UNCLASSIFIED - 2023-11-20T11:32:30.740Z]

Kelli,

I noticed the remainder of the evidence is available for pick up. If you could provide me with a completion ETA, when you return after the holiday that would be greatly appreciated. Thank you.

Happy Thanksgiving.

Megan Robbins
Special Agent
NCIS Camp Lejeune
1250G Birch Street
Cell: [redacted]

From: Robbins, Megan
Sent: Monday, November 20, 2023 9:07 AM
To: 'USARMY Ft Gillem DFSC Mailbox Case Management Branch' <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-20T11:32:30.740Z]

Kelli,

While we were processing the crime scene there were individuals talking through the victim's headset. We believe he was playing Call of Duty Zombies when he shot, but it sounded like he was communicating with people through different means (possibly discord). When they evaluate his computer if we can get information regarding how he was communicating, his username for that program, and if they are able to find out who he was talking to (I know I'll probably have to go through the company to find this out, but if they can see if they can get any information that would be greatly appreciated). Hopefully there is some movement with the evidence today.

Megan Robbins
Special Agent
NCIS Camp Lejeune
1250G Birch Street
Cell: [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Sent: Monday, November 20, 2023 6:33 AM
To: Robbins, Megan <megan.robbins@ncis.navy.mil>

Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-20T11:32:30.740Z]

UNCLASSIFIED

My apologies, I was going through my e-mail in order and just saw this response. Thank you for letting me know. Please standby while I reach out to everyone here at USACIL. I did check the tracking this morning and it hasn't been updated since the 18th. Hopefully we see movement on it today.

Kelli Couey
Physical Science Technician
US Army Criminal Investigation Laboratory
4930 North 31st Street
Forest Park, GA 30297-5205
Email: Kelli.j.couey.civ@army.mil

UNCLASSIFIED

From: Robbins, Megan <megan.robbins@ncis.navy.mil>
Sent: Friday, November 17, 2023 3:34 PM
To: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-17T19:45:47.289Z]

Kelli,

Trial Counsel provided the following information. There are no pending court dates at this moment. As of right now, the defense has not indicated what they want to observe. So we must assume all of them.

Megan Robbins
Special Agent
NCIS Camp Lejeune
1250G Birch Street
Cell: [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Sent: Friday, November 17, 2023 2:46 PM
To: Robbins, Megan <megan.robbins@ncis.navy.mil>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-17T19:45:47.289Z]

UNCLASSIFIED

Perfect. Thank you for letting me know.

Based on the number of items and the different branches that are involved: I will need to run this up the chain to my Branch Chief, Deputy Director, and legal team (then we will need to coordinate with branches).

Before I do that: is the Defense requesting to observe ALL testing? If not, which ones? Right now, we currently have the following branches involved: Digital evidence, DNA, Firearms, Latent Prints, Trace Evidence.

I want to make sure I have everything I need when I go up the chain. You also mentioned that you may need to request an excludable delay (if it will take more/less than 30 days). Is there a court date or anything pending for this?

Also, please provide me that tracking number so I can track it as well. Thanks again.

Kelli Couey
Physical Science Technician
US Army Criminal Investigation Laboratory
4930 North 31st Street
Forest Park, GA 30297-5205
Email: Kelli.j.couey.civ@army.mil

UNCLASSIFIED

From: Robbins, Megan <megan.robbins@ncis.navy.mil>
Sent: Friday, November 17, 2023 2:39 PM
To: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Subject: FW: Pre-submission Request - [UNCLASSIFIED - 2023-11-17T19:14:41.038Z]

Kelli,

Correction, the other evidence is in Fayetteville.

Megan Robbins
Special Agent
NCIS Camp Lejeune
1250G Birch Street
Cell: [redacted]

From: Robbins, Megan

AE 11
Pg 7 of 14

Sent: Friday, November 17, 2023 2:25 PM
To: 'USARMY Ft Gillem DFSC Mailbox Case Management Branch' <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-17T19:14:41.038Z]

Kelli,

The other items were taken to the post office on the 15th, but they are being sent registered mail usps. The tracking number is not giving me any information yet.

Megan Robbins
Special Agent
NCIS Camp Lejeune
1250G Birch Street
Cell: [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Sent: Friday, November 17, 2023 2:15 PM
To: Robbins, Megan <megan.robbins@ncis.navy.mil>
Cc: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-17T19:14:41.038Z]

UNCLASSIFIED

Thank you for the update. It looks as if we received just item 396-23/G. Are the other items in route? Please track the additional evidence and let me know where they are and then I will be able to give you a better turn around time.

Thank you,

Kelli Couey
Physical Science Technician
US Army Criminal Investigation Laboratory
4930 North 31st Street
Forest Park, GA 30297-5205
Email: Kelli.j.couey.civ@army.mil

UNCLASSIFIED

From: Robbins, Megan <megan.robbins@ncis.navy.mil>
Sent: Friday, November 17, 2023 2:09 PM
To: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>

Cc: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Subject: Re: Pre-submission Request - [UNCLASSIFIED - 2023-11-03T10:50:51.940Z]

Kelli,

1. It didn't look like the subject was bleeding sufficient, just some minor injuries. That's fine.

2. Yes, I will get them fumed prior to sending.

3. We have no reason to believe the clothes were washed. He was wearing them when the shooting occurred according to witnesses and was still wearing them when he was located 3 hours later.

Attached is the Search authorization for the requested testing. Let me know if you need the documents providing permission for the exclusionary DNA and major case prints.

Can you provide an ETA for completion? I know that it is hard at this stage, but for requesting an excludable delay, I need at a bare minimum if it will take more or less than 30 days. Can you provide about a 5 day to a week's notice prior to testing so we can offer the defense attorney an opportunity to be present, because he has made the request to have the opportunity to be present?

Thank you,

Megan Robbins
Special Agent
NCIS Camp Lejeune
1250G Birch Street
Cell: [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Sent: Friday, November 3, 2023 6:50:53 AM
To: Robbins, Megan
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-03T10:50:51.940Z]

UNCLASSIFIED

Thank you for that update.

1. I have made notes of the examinations that you're requesting and have everything requested in my testing strategy. However, assuming that you want touch DNA on Ex 8 (suspected brass jacket fragment) and that the V/ was the only one bleeding, we will only offer Firearm exams on this item of evidence (No DNA/or Latent Prints). Please let me know if this is ok.

2. Please also superglue fume items (casing): 396-23/O and 397-23/A prior to shipping.

3. Is it safe to assume that the clothing items were not washed from the time of the incident to apprehension?

In the meantime, the USACIL case number will be 23-ATL-01667. You'll be receiving an automated e-mail shortly with further shipping instructions. Please be advised, based on case circumstances, additional Trace Evidence exams may be added to your case. These exams will be dependent on the DNA results. Thank you again!

Kelli Couey
Physical Science Technician
US Army Criminal Investigation Laboratory
4930 North 31st Street
Forest Park, GA 30297-5205
Email: Kelli.j.couey.civ@army.mil

UNCLASSIFIED

From: Robbins, Megan <megan.robbins@ncis.navy.mil>
Sent: Thursday, November 2, 2023 12:44 PM
To: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-02T13:34:26.752Z]

Kelli,

The suspected brass jacket fragment was located in the pool of blood, which would have been around where the victim was laying. The victim was removed prior to NCIS' arrival, so we don't have first hand knowledge of the location of the victim. The silver suspected projectile fragment (possibly the core of the bullet) was located on the bed east of the victim. For reference, the subject was right inside the door, the victim was in a chair east of the subject and then the bed was east of the victim. The shell casing was located south/east of the door the subject was by and south of the victim's location.

Hopefully this helps.

Megan Robbins
Special Agent

NCIS Camp Lejeune
1250G Birch Street
Cell [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Sent: Thursday, November 2, 2023 9:34 AM
To: Robbins, Megan <megan.robbins@ncis.navy.mil>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-02T13:34:26.752Z]

UNCLASSIFIED

Thank you for that information. It was very helpful, just one more thing I need to know and then I'll get back to you about the superglue fuming

1. The fragments: where were they collected exactly in relation to the body? Anything you can tell me about them will be helpful for me to go to DNA about testing them. Are they in a lot of pieces, etc.

Thanks!

Kelli Couey
Physical Science Technician
US Army Criminal Investigation Laboratory
4930 North 31st Street
Forest Park, GA 30297-5205
Email: Kelli.j.couey.civ@army.mil

UNCLASSIFIED

From: Robbins, Megan <megan.robbins@ncis.navy.mil>
Sent: Thursday, November 2, 2023 8:16 AM
To: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-01T11:39:42.728Z]

You don't often get email from megan.robbins@ncis.navy.mil. Learn why this is important

1. Unfortunately, none of our reports are ready for distribution. S/BOPP was intoxicated and showing his firearm to LCpl Dickinson and LCpl Metcalf, both of whom admitted to touching the firearm. LCpl Metcalf also reported he pulled the trigger, but never handled the magazine. S/BOPP then walked to Cpl House's and V/SCHWENK's room. According to Cpl House who was in the room at the time of the shooting, S/BOPP put the firearm to his own head and made

multiple suicidal jokes and then pointed the gun at V/SCHWENK and the firearm fired. There was no argument or conflict between S/BOPP and V/SCHWENK. S/BOPP dropped the firearm in V/SCHWENK's room and ran. S/BOPP evaded law enforcement for approximately three hours. Another marine called 911 and reported a person laying on a bridge. Law Enforcement responded and apprehended S/BOPP. Once apprehended his clothes and GSR kit were collected. S/BOPP had minor injures to his legs, feet, and left hand. S/BOPP was too intoxicated to be interviewed at the time of apprehension so a room was secured and a prisoner watch was established until he was able to be interviewed. S/BOPP invoked his rights and did not make a statement to NCIS.

2. Attached are the requested ECDs.
3. Yes, all the electronics belong to the victim.
4. Ex 4 went through the Victim's body, we were requesting trace to confirm that.
5. The GSR kit was collected from the subject.
6. The sweatshirt and boxers were collected from the subject. That was all he was wearing at the time of shooting/apprehension.
7. Brennan Daniel Metcalf, 5/20/98, 651-07-8797; Aiden Parker Dickinson, 2/18/04,636-90-8651; Jesse Thomas Bopp, 4/14/00, 397-19-6906; and Austin Brian Schwenk, 5/22/04, 683-05-6190.
8. The ME case number is ME23-0207.
9. We superglued fumed the firearm, magazine, and the round that was in the chamber. Do you want other items superglued?
10. The Walther PDP is personally owned by the subject.

Please let me know if you need anything else.

Thank you,
Megan Robbins
Special Agent
NCIS Camp Lejeune
1250G Birch Street
Cell: [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Sent: Wednesday, November 1, 2023 7:40 AM
To: Robbins, Megan <megan.robbins@ncis.navy.mil>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-01T11:39:42.728Z]

UNCLASSIFIED

Good morning SA Robbins,

I will be the Case Manager assigned to assist you with this presubmission. I have looked over the lab request provided and have a few questions while I complete my review:

1. Can you send me any summaries, reports, photos, interviews, etc that will help me better understand the case and the evidence being submitted?

2. Can you also send me Evidence Custody Documents 396-23, 397-23, 399-23, 405-23, 408-23, 409-23, 410-23, 404-23 for review?

3. Do all of the digital items belong to the V/ (phone, laptop, etc)? If not, can you tell me which item belongs to whom?
   Additionally, if any of the items do not belong to the V/, I will need a copy of the search and seizure documents.

4. Did Ex 4 (projectile- 396-23/D) go through the V/ body?
   When you request "Trace Evidence" on this item , what exactly are you looking for?

5. Who was the GSR kit collected from?

6. Who was the sweatshirt and boxers collected from?

7. Can you provide me with the full BIO (name, DOB, SSN) of everyone (METCALF, DICKINSON, BOPP, SCHWENK)?

8. Can you provide me with the ME case number so I can request the DNA from AFDIL?

9. Will you be able to superglue fume the Latent Print items prior to submission? Doing so will preserve any potential prints that are on the items and that could be disturbed during transit.

10. Is the Walther PDP a personal owned weapon (not military issued)?

That is all I have for the time being. Please hold on to all evidence until I review everything above. I look forward to hearing from you,

Kelli Couey
Physical Science Technician
US Army Criminal Investigation Laboratory
4930 North 31st Street
Forest Park, GA 30297-5205
Email: Kelli.j.couey.civ@army.mil

UNCLASSIFIED

From: Robbins, Megan <megan.robbins@ncis.navy.mil>
Sent: Tuesday, October 31, 2023 12:10 PM
To: dodfsccmb@mail.mil
Subject: Pre-submission Request

You don't often get email from megan.robbins@ncis.navy.mil. Learn why this is important

Attached is the pre-submission form for my case. Please let me know what you need and when I can submit the evidence.

Thank you,
Megan Robbins
Special Agent
NCIS Camp Lejeune
1250G Birch Street
Cell: [redacted]

AE 111
Pg 14 of 14

DEPARTMENT OF THE NAVY
MARINE CORPS OFFICE OF SPECIAL TRIAL COUNSEL - MCB CAMP LEJEUNE
MARINE CORPS BASE CAMP LEJEUNE
PSC BOX 20010
CAMP LEJEUNE, NC 28542-0010

5811
OSTC
10 Jan 23

From: Special Trial Counsel
To: Commanding Officer, 2d Battalion 6th Marines

Subj: SECOND REQUEST FOR EXCLUDABLE DELAY IN THE CASE OF UNITED STATES V. CORPORAL JESSE T. BOPP, USMC

Ref: (a) Rules for Courts-Martial 707
(b) Article 10, UCMJ
(c) 72 Hour Memo dtd 19 October 2023
(d) Request For Excludable Delay dtd 6 Dec 23

Encl: (1) Email from SA Robbins 10Jan24

1. This second request is submitted in accordance with Rule 707(c)(1) of reference (a), which provides you the authority to grant pretrial delay prior to referral of a courts-martial. Reasons for granting pretrial delay include, but are not limited to, providing sufficient time to secure evidence, as well as to prepare for trial.

2. On 7 December 2023, you approved thirty days of excludable delay from 28 November 2023 to 28 December 2023 because the United States Army Criminal Investigations Laboratory (USACIL) estimated that it would not complete its forensic analysis of several items in the case within thirty days. On 10 January 2024, USACIL provided an update to NCIS Special Agent Megan Robbins on the current status of forensic analysis. USACIL estimates that while several items may be completed in the next 30 days, all of the items will not be complete by the end of January. It is likely that the DNA, digital examination, and firearm analysis will not be completed before the end of January.

3. The government requests that all pretrial delay from 28 December 2023 (inclusive) through 27 January 2024 (inclusive), a period of 30 days, be excluded in accordance with reference (a). To date, the Defense has not demanded a speedy trial.

AE IV
Pg 1 of 23

Subj: SECOND REQUEST FOR EXCLUDABLE DELAY IN THE CASE OF UNITED STATES V. CORPORAL JESSE T. BOPP, USMC

4. The point of contact in this matter is Major Jason Samuel, Special Trial Counsel Team Leader, at (910) 451-9725 or via email at jason.d.samuel.mil@usmc.mil.

[redacted]

J. D. SAMUEL

AE IV

Pg 2 of 23

Subj: SECOND REQUEST FOR EXCLUDABLE DELAY IN THE CASE OF UNITED STATES V. CORPORAL JESSE T. BOPP, USMC

From: Commanding Officer, 2d Battalion 6th Marines
To: Special Trial Counsel

1. Your request is:

a. JRA GRANTED. All pretrial delay from 28 December 2023 (inclusive) through 27 January 2024 (inclusive), a period of 30 days, is excluded in accordance with reference (a).

b. _____ GRANTED IN PART, DENIED IN PART. All pretrial delay from _____2023 (inclusive) until _____ (inclusive), a period of _____ days, is excluded in accordance with reference (c).

c. _____ DENIED.

[redacted]

J. R. ARMSTRONG
LtCol, U.S. Marine Corps
Commanding Officer

AE IV
Pg 3 of 23

From: Robbins, Megan
To: Samuel Maj Jason D
Subject: FW: Pre-submission Request - [UNCLASSIFIED - 2023-11-29T16:34:15.364Z]
Date: Wednesday, January 10, 2024 1:31:09 PM

Jason,

Below was USACIL's response when I asked for an eta for S/BOPP.

SA Robbins,

I just heard back from the digital examiner (who is also taking the photos). She stated that she will know more later but she suspects her portion will take more than 30 days.

-----Original Message-----
From: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Sent: Wednesday, January 10, 2024 9:56 AM
To: Robbins, Megan <megan.robbins@ncis.navy.mil>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-29T16:34:15.364Z]

SA Robbins,

I have talked to (almost) everyone that is assigned to the case and/or their managers:

-DNA hopes to have the report released by the end of the month barring no unforeseen circumstances.

-Latent Prints was assigned on 9JAN24. It shouldn't take too long to process, and he should be done in LESS than 30 days. When Latent Prints is done with the evidence it will be the next case to be worked in Firearms. Unless something comes up then it should take just over a week to complete in firearms (once the branch gets it).

-There are computer forensic requests as well as digital imaging for the photo of the firearm and I haven't heard back from them yet. This will add some time on to it as well.

Given that this case is a multi-branch case it is difficult to pinpoint if it will be completed in the 30-day time frame. However, it is currently being worked on and/or assigned. I hope this was able to give you a better understanding of the timeline. Please keep me updated.

Kelli Couey
Physical Science Technician
US Army Criminal Investigation Laboratory
4930 North 31st Street
Forest Park, GA 30297-5205
Email: Kelli.j.couey.civ@army.mil

-----Original Message-----
From: Robbins, Megan <megan.robbins@ncis.navy.mil>
Sent: Tuesday, January 9, 2024 4:57 PM
To: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Subject: Re: Pre-submission Request - [UNCLASSIFIED - 2023-11-29T16:34:15.364Z]

Kelli,

Can you advise if the eta for all examination completion for USACIL 23-ATL-01667 is more or less than 30 days out? We need to know if we have to ask for an additional extension from the court.

Thank you,

Megan Robbins
Special Agent
NCIS Camp Lejeune
1250G Birch Street
Cell: [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Sent: Wednesday, November 29, 2023 4:00 PM
To: Robbins, Megan
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-29T16:34:15.364Z]

Thank you for that. I have updated the items and information.

The Win shell casing is Ex 8.

The Sig luger is Ex 9.

I have made all the changes below. Thank you again!

Kelli Couey

Physical Science Technician

US Army Criminal Investigation Laboratory

4930 North 31st Street

Forest Park, GA 30297-5205

Email: Kelli.j.couey.civ@army.mil<mailto:Kelli.j.couey.civ@army.mil>

From: Robbins, Megan <megan.robbins@ncis.navy.mil>
Sent: Wednesday, November 29, 2023 2:49 PM
To: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-29T16:34:15.364Z]

Kelli,

To the best of my knowledge the weapon has not been submitted to NIBIN. It has not been submitted in regards to this case.

Yes, sorry the pre-submission form and the one sent with evidence differs because we returned a witness' phone.

Ex 3: I just wanted to state we believe the victim was using another program to communicate. We don't think he was communicating through call of duty.

The WIN shell casing was from the scene. The Sig Luger casing was not from the scene, it was found in an area near where the suspect was located. I'm sorry I'm not sure which ex number is which.

I'm pretty sure USACIL doesn't look at fired projectile for latents, but I just wanted to confirm.

Everything else looks good. Thank you.

Megan Robbins

AE IV
Pg 6 of 23

Special Agent

NCIS Camp Lejeune

1250G Birch Street

Cell: [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch
<usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem
.dfsc.mbx.case-management-branch@army.mil>>
Sent: Wednesday, November 29, 2023 11:34 AM
To: Robbins, Megan
<megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Subject: RE: Pre-submission Request - [UNCLASSIFIED -
2023-11-29T16:34:15.364Z]

UNCLASSIFIED

My apologies

It should read Ex 14-20: Known standards for DNA and Latent Prints

Kelli Couey

Physical Science Technician

US Army Criminal Investigation Laboratory

4930 North 31st Street

Forest Park, GA 30297-5205

Email: Kelli.j.couey.civ@army.mil<mailto:Kelli.j.couey.civ@army.mil>

UNCLASSIFIED

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch
Sent: Wednesday, November 29, 2023 11:26 AM
To: Robbins, Megan
<megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Subject: RE: Pre-submission Request - [UNCLASSIFIED -
2023-11-29T16:25:58.736Z]
Importance: High

AE IV

Pg 7 of 23

UNCLASSIFIED

SA Robbins,

During review the following was brought up and I wanted to confirm a few things:

1. This weapon hasn't previously been entered into NIBIN has it?

1. The original lab request that you sent me differs from the one that was sent with the evidence. The exhibit numbers are off in block 13 due to changes that we have discussed and evidence coming in at different times. Please review my testing strategy below and please let me know if you agree with this:

Ex 1: Weapon accessory (magazine with unknown rounds): DNA, Latent Prints, Firearms

Ex 2: iPhone: Digital exams

Ex 3: Acer laptop: Digital exams (including who the V/ may have been communicating with, his username, etc while playing Call of Duty Zombies)

Ex 4: iPad: Digital exams

Ex 5: Projectile from scene: DNA, Firearms

Ex 6: Firearm: DNA, Latent Prints, Firearms, digital images of muzzle with scale

Ex 7: Fragment from scene: Firearms

Ex 8: Casing from scene: DNA, Latent Prints, Firearms

Ex 9: Casing from scene: DNA, Latent Prints, Firearms

Ex 10: GSR kit : Firearm discharge residues

Ex 11: Sweatshirt from S/: GSR, DNA, Digital imaging using IR

Ex 12: Underwear from S/: GSR, DNA, Digital imaging using IR

Ex 13: iWatch: Digital exams

Ex 13-20: Known standards for DNA and LP

Thank you and I look forward to your response.

Kelli Couey

Physical Science Technician

US Army Criminal Investigation Laboratory

4930 North 31st Street

Forest Park, GA 30297-5205

Email: Kelli.j.couey.civ@army.mil<mailto:Kelli.j.couey.civ@army.mil>

UNCLASSIFIED

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch
Sent: Tuesday, November 28, 2023 2:02 PM
To: 'Robbins, Megan'
<megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-28T19:01:52.358Z]

UNCLASSIFIED

SA Robbins,

We have all of the evidence at the lab now and I'm getting ready to submit them out to the branches (hopefully tomorrow). I just wanted to inform you that my Branch Chief spoke with our Digital Evidence group and we do not think that the digital evidence will be able to make the 30 day deadline, due to how they work and how time consuming electronics can be.

Once the other cases have been assigned in the branches, the assigned examiner will be able to give you a better idea of how long the testing will take. However, the case has been marked an expedite in our system.

Thank you!

Kelli Couey

Physical Science Technician

US Army Criminal Investigation Laboratory

4930 North 31st Street

Forest Park, GA 30297-5205

Email: Kelli.j.couey.civ@army.mil<mailto:Kelli.j.couey.civ@army.mil>

UNCLASSIFIED

From: Robbins, Megan
<megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Sent: Wednesday, November 22, 2023 12:56 PM
To: USARMY Ft Gillem DFSC Mailbox Case Management Branch
<usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem
.dfsc.mbx.case-management-branch@army.mil>>
Subject: Pre-submission Request - [UNCLASSIFIED - 2023-11-20T11:32:30.740Z]

Kelli,

I noticed the remainder of the evidence is available for pick up. If you could provide me with a completion ETA, when you return after the holiday that would be greatly appreciated. Thank you.

Happy Thanksgiving.

Megan Robbins

Special Agent

NCIS Camp Lejeune

1250G Birch Street

Cell: [redacted]

From: Robbins, Megan
Sent: Monday, November 20, 2023 9:07 AM
To: 'USARMY Ft Gillem DFSC Mailbox Case Management Branch'
<usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem

.dfsc.mbx.case-management-branch@army.mil>>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-20T11:32:30.740Z]

Kelli,

While we were processing the crime scene there were individuals talking through the victim's headset. We believe he was playing Call of Duty Zombies when he shot, but it sounded like he was communicating with people through different means (possibly discord). When they evaluate his computer if we can get information regarding how he was communicating, his username for that program, and if they are able to find out who he was talking to (I know I'll probably have to go through the company to find this out, but if they can see if they can get any information that would be greatly appreciated). Hopefully there is some movement with the evidence today.

Megan Robbins

Special Agent

NCIS Camp Lejeune

1250G Birch Street

Cell: [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>>
Sent: Monday, November 20, 2023 6:33 AM
To: Robbins, Megan <megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-20T11:32:30.740Z]

UNCLASSIFIED

My apologies, I was going through my e-mail in order and just saw this response. Thank you for letting me know. Please standby while I reach out to everyone here at USACIL. I did check the tracking this morning and it hasn't been updated since the 18th. Hopefully we see movement on it today.

Kelli Couey

Physical Science Technician

US Army Criminal Investigation Laboratory

4930 North 31st Street

Forest Park, GA 30297-5205

Email: Kelli.j.couey.civ@army.mil<mailto:Kelli.j.couey.civ@army.mil>

UNCLASSIFIED

From: Robbins, Megan
<megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Sent: Friday, November 17, 2023 3:34 PM
To: USARMY Ft Gillem DFSC Mailbox Case Management Branch
<usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem
.dfsc.mbx.case-management-branch@army.mil>>
Subject: RE: Pre-submission Request - [UNCLASSIFIED -
2023-11-17T19:45:47.289Z]

Kelli,

Trial Counsel provided the following information. There are no pending court dates at this moment. As of right now, the defense has not indicated what they want to observe. So we must assume all of them.

Megan Robbins

Special Agent

NCIS Camp Lejeune

1250G Birch Street

Cell: [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch
<usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem
.dfsc.mbx.case-management-branch@army.mil>>
Sent: Friday, November 17, 2023 2:46 PM
To: Robbins, Megan
<megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Subject: RE: Pre-submission Request - [UNCLASSIFIED -
2023-11-17T19:45:47.289Z]

UNCLASSIFIED

Perfect. Thank you for letting me know.

Based on the number of items and the different branches that are involved: I will need to run this up the chain to my Branch Chief, Deputy Director, and legal team (then we will need to coordinate with branches).

Before I do that: is the Defense requesting to observe ALL testing? If not, which ones? Right now, we currently have the following branches involved: Digital evidence, DNA, Firearms, Latent Prints, Trace Evidence.

I want to make sure I have everything I need when I go up the chain. You also mentioned that you may need to request an excludable delay (if it will take more/less than 30 days). Is there a court date or anything pending for this?

Also, please provide me that tracking number so I can track it as well.
Thanks again.

Kelli Couey

Physical Science Technician

US Army Criminal Investigation Laboratory

4930 North 31st Street

Forest Park, GA 30297-5205

Email: Kelli.j.couey.civ@army.mil<mailto:Kelli.j.couey.civ@army.mil>

UNCLASSIFIED

From: Robbins, Megan
<megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Sent: Friday, November 17, 2023 2:39 PM
To: USARMY Ft Gillem DFSC Mailbox Case Management Branch
<usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem

.dfsc.mbx.case-management-branch@army.mil>>
Subject: FW: Pre-submission Request - [UNCLASSIFIED -
2023-11-17T19:14:41.038Z]

Kelli,

Correction, the other evidence is in Fayetteville.

Megan Robbins

Special Agent

NCIS Camp Lejeune

1250G Birch Street

Cell: [redacted]

From: Robbins, Megan
Sent: Friday, November 17, 2023 2:25 PM
To: 'USARMY Ft Gillem DFSC Mailbox Case Management Branch'
<usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem
.dfsc.mbx.case-management-branch@army.mil>>
Subject: RE: Pre-submission Request - [UNCLASSIFIED -
2023-11-17T19:14:41.038Z]

Kelli,

The other items were taken to the post office on the 15th, but they are being sent registered mail usps. The tracking number is not giving me any information yet.

Megan Robbins

Special Agent

NCIS Camp Lejeune

1250G Birch Street

Cell: [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch
<usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem
.dfsc.mbx.case-management-branch@army.mil>>
Sent: Friday, November 17, 2023 2:15 PM
To: Robbins, Megan
<megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Cc: Samuel Maj Jason D
<jason.d.samuel.mil@usmc.mil<mailto:jason.d.samuel.mil@usmc.mil>>
Subject: RE: Pre-submission Request - [UNCLASSIFIED -
2023-11-17T19:14:41.038Z]

UNCLASSIFIED

Thank you for the update. It looks as if we received just item 396-23/G. Are the other items in route? Please track the additional evidence and let me know where they are and then I will be able to give you a better turn around time.

Thank you,

Kelli Couey

Physical Science Technician

US Army Criminal Investigation Laboratory

4930 North 31st Street

Forest Park, GA 30297-5205

Email: Kelli.j.couey.civ@army.mil<mailto:Kelli.j.couey.civ@army.mil>

UNCLASSIFIED

From: Robbins, Megan
<megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Sent: Friday, November 17, 2023 2:09 PM
To: USARMY Ft Gillem DFSC Mailbox Case Management Branch
<usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem
.dfsc.mbx.case-management-branch@army.mil>>
Cc: Samuel Maj Jason D
<jason.d.samuel.mil@usmc.mil<mailto:jason.d.samuel.mil@usmc.mil>>
Subject: Re: Pre-submission Request - [UNCLASSIFIED -
2023-11-03T10:50:51.940Z]

Kelli,

1. It didn't look like the subject was bleeding sufficient, just some mino injuries. That's fine.

2. Yes, I will get them fumed prior to sending.

3. We have no reason to believe the clothes were washed. He was wearing them when the shooting occurred according to witnesses and was still wearing them when he was located 3 hours later.

Attached is the Search authorization for the requested testing. Let me know if you need the documents providing permission for the exclusionary DNA and major case prints.

Can you provide an ETA for completion? I know that it is hard at this stage, but for requesting an excludable delay, I need at a bare minimum if it will take more or less than 30 days. Can you provide about a 5 day to a week's notice prior to testing so we can offer the defense attorney an opportunity to be present, because he has made the request to have the opportunity to be present?

Thank you,

Megan Robbins

Special Agent

NCIS Camp Lejeune

1250G Birch Street

Cell: [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>>
Sent: Friday, November 3, 2023 6:50:53 AM
To: Robbins, Megan
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-03T10:50:51.940Z]

UNCLASSIFIED

Thank you for that update.

1. I have made notes of the examinations that you're requesting and have everything requested in my testing strategy. However, assuming that you want touch DNA on Ex 8 (suspected brass jacket fragment) and that the V/ was the only one bleeding, we will only offer Firearm exams on this item of evidence (No DNA/or Latent Prints). Please let me know if this is ok.

1. Please also superglue fume items (casing): 396-23/O and 397-23/A prior to shipping.

1. Is it safe to assume that the clothing items were not washed from the time of the incident to apprehension?

In the meantime, the USACIL case number will be 23-ATL-01667. You'll be receiving an automated e-mail shortly with further shipping instructions. Please be advised, based on case circumstances, additional Trace Evidence exams may be added to your case. These exams will be dependent on the DNA results. Thank you again!

Kelli Couey

Physical Science Technician

US Army Criminal Investigation Laboratory

4930 North 31st Street

Forest Park, GA 30297-5205

Email: Kelli.j.couey.civ@army.mil<mailto:Kelli.j.couey.civ@army.mil>

UNCLASSIFIED

From: Robbins, Megan
<megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Sent: Thursday, November 2, 2023 12:44 PM
To: USARMY Ft Gillem DFSC Mailbox Case Management Branch
<usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem

.dfsc.mbx.case-management-branch@army.mil>>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-02T13:34:26.752Z]

Kelli,

The suspected brass jacket fragment was located in the pool of blood, which would have been around where the victim was laying. The victim was removed prior to NCIS' arrival, so we don't have first hand knowledge of the location of the victim. The silver suspected projectile fragment (possibly the core of the bullet) was located on the bed east of the victim. For reference, the subject was right inside the door, the victim was in a chair east of the subject and then the bed was east of the victim. The shell casing was located south/east of the door the subject was by and south of the victim's location.

Hopefully this helps.

Megan Robbins

Special Agent

NCIS Camp Lejeune

1250G Birch Street

Cell: [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>>
Sent: Thursday, November 2, 2023 9:34 AM
To: Robbins, Megan <megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-02T13:34:26.752Z]

UNCLASSIFIED

Thank you for that information. It was very helpful, just one more thing I need to know and then I'll get back to you about the superglue fuming

1. The fragments: where were they collected exactly in relation to the

body? Anything you can tell me about them will be helpful for me to go to DNA about testing them. Are they in a lot of pieces, etc.

Thanks!

Kelli Couey

Physical Science Technician

US Army Criminal Investigation Laboratory

4930 North 31st Street

Forest Park, GA 30297-5205

Email: Kelli.j.couey.civ@army.mil<mailto:Kelli.j.couey.civ@army.mil>

UNCLASSIFIED

From: Robbins, Megan
<megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Sent: Thursday, November 2, 2023 8:16 AM
To: USARMY Ft Gillem DFSC Mailbox Case Management Branch
<usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-01T11:39:42.728Z]

You don't often get email from megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>. Learn why this is important<https://aka.ms/LearnAboutSenderIdentification>

Kelli,

1. Unfortunately, none of our reports are ready for distribution. S/BOPP was intoxicated and showing his firearm to LCpl Dickinson and LCpl Metcalf, both of whom admitted to touching the firearm. LCpl Metcalf also reported he pulled the trigger, but never handled the magazine. S/BOPP then walked to Cpl House's and V/SCHWENK's room. According to Cpl House who was in the room at the time of the shooting, S/BOPP put the firearm to his own head and made multiple suicidal jokes and then pointed the gun at V/SCHWENK and the firearm fired. There was no argument or conflict between S/BOPP and V/SCHWENK. S/BOPP dropped the firearm in V/SCHWENK's room and ran. S/BOPP

evaded law enforcement for approximately three hours. Another marine called 911 and reported a person laying on a bridge. Law Enforcement responded and apprehended S/BOPP. Once apprehended his clothes and GSR kit were collected. S/BOPP had minor injures to his legs, feet, and left hand. S/BOPP was too intoxicated to be interviewed at the time of apprehension so a room was secured and a prisoner watch was established until he was able to be interviewed. S/BOPP invoked his rights and did not make a statement to NCIS.

2. Attached are the requested ECDs.
3. Yes, all the electronics belong to the victim.
4. Ex 4 went through the Victim's body, we were requesting trace to confirm that.
5. The GSR kit was collected from the subject.
6. The sweatshirt and boxers were collected from the subject. That was all he was wearing at the time of shooting/apprehension.
7. Brennan Daniel Metcalf, 5/20/98, 651-07-8797; Aiden Parker Dickinson, 2/18/04,636-90-8651; Jesse Thomas Bopp, 4/14/00, 397-19-6906; and Austin Brian Schwenk, 5/22/04, 683-05-6190.
8. The ME case number is ME23-0207.
9. We superglued fumed the firearm, magazine, and the round that was in the chamber. Do you want other items superglued?
10. The Walther PDP is personally owned by the subject.

Please let me know if you need anything else.

Thank you,

Megan Robbins

Special Agent

NCIS Camp Lejeune

1250G Birch Street

Cell: [redacted]

From: USARMY Ft Gillem DFSC Mailbox Case Management Branch <usarmy.gillem.dfsc.mbx.case-management-branch@army.mil<mailto:usarmy.gillem.dfsc.mbx.case-management-branch@army.mil>>
Sent: Wednesday, November 1, 2023 7:40 AM
To: Robbins, Megan <megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Subject: RE: Pre-submission Request - [UNCLASSIFIED - 2023-11-01T11:39:42.728Z]

UNCLASSIFIED

Good morning SA Robbins,

I will be the Case Manager assigned to assist you with this presubmission. I have looked over the lab request provided and have a few questions while I complete my review:

1. Can you send me any summaries, reports, photos, interviews, etc that will help me better understand the case and the evidence being submitted?

1. Can you also send me Evidence Custody Documents 396-23, 397-23, 399-23, 405-23, 408-23, 409-23, 410-23, 404-23 for review?

1. Do all of the digital items belong to the V/ (phone, laptop, etc)? If not, can you tell me which item belongs to whom?
Additionally, if any of the items do not belong to the V/, I will need a copy of the search and seizure documents.

1. Did Ex 4 (projectile- 396-23/D) go through the V/ body?
When you request "Trace Evidence" on this item , what exactly are you looking for?

1. Who was the GSR kit collected from?

1. Who was the sweatshirt and boxers collected from?

1. Can you provide me with the full BIO (name, DOB, SSN) of everyone (METCALF, DICKINSON, BOPP, SCHWENK)?

1. Can you provide me with the ME case number so I can request the DNA from AFDIL?

1. Will you be able to superglue fume the Latent Print items prior to submission? Doing so will preserve any potential prints that are on the items and that could be disturbed during transit.

1. Is the Walther PDP a personal owned weapon (not military issued)?

That is all I have for the time being. Please hold on to all evidence until I review everything above. I look forward to hearing from you,

Kelli Couey

Physical Science Technician

US Army Criminal Investigation Laboratory

4930 North 31st Street

Forest Park, GA 30297-5205

Email: Kelli.j.couey.civ@army.mil<mailto:Kelli.j.couey.civ@army.mil>

UNCLASSIFIED

From: Robbins, Megan
<megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>>
Sent: Tuesday, October 31, 2023 12:10 PM
To: dodfsccmb@mail.mil<mailto:dodfsccmb@mail.mil>
Subject: Pre-submission Request

You don't often get email from megan.robbins@ncis.navy.mil<mailto:megan.robbins@ncis.navy.mil>. Learn why this is important<https://aka.ms/LearnAboutSenderIdentification>

To Whom it May Concern,

Attached is the pre-submission form for my case. Please let me know what you need and when I can submit the evidence.

Thank you,

Megan Robbins

Special Agent

NCIS Camp Lejeune

1250G Birch Street

Cell: [redacted]

AE IV
Pg 23 of 23

DEPARTMENT OF THE NAVY
NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES v. JESSE T. BOPP CORPORAL/E-4 U.S. MARINE CORPS	**GOVERNMENT MOTION FOR APPROPRIATE RELIEF (TOLL SPEEDY TRIAL CLOCK)** 25 January 2024

1. Nature of Motion.

The Government requests that the Court toll the R.C.M. 707 and Article 10, UCMJ, speedy trial clocks.

2. Burden of Proof and Persuasion.

As the moving party, the Government bears the burden of proof and persuasion.[1]

3. Summary of Facts.

On 18 October 2023, Corporal Jesse Bopp shot and killed Lance Corporal A.S.[2] He was taken into custody later that day and placed into pre-trial confinement on 19 October 2023. Charges were preferred against him on 29 November 2023.[3] An Article 32 Preliminary Hearing was held 3 January 2024. On 19 January 2024, the Convening Authority referred his charges to this general court-martial. On 23 January 2024, at 2:52:00PM, the Government sent a signed Pretrial Information Report (PTIR)[4] to the accused's detailed defense counsel, Major Joshua Rehak[5], and to the Victim's Legal Counsel, Lieutenant Colonel Stacy Allen, in

[1] R.C.M. 905(c)
[2] Names of victims and witnesses will be redacted IAW EJCR 7.3.
[3] Charge Sheet
[4] Enclosure 1 - PTIR for U.S. v. Bopp
[5] To the government's information and knowledge, Maj Rehak is the only assigned counsel to the accused; military or civilian.

AE √
Pg 1 of 6

preparation for seeking an arraignment on 30 January 2023.[6] The Government did not receive a response to that email from the defense counsel. Later that day, at 3:35:00 PM, the Government sent another email to the detailed defense counsel with the allied papers[7]. At 3:35:08 PM, the Government received an automatic reply email from Major Rehak's account indicating that "[He is] currently on paternity leave and unavailable."[8] The Government has submitted the PTIR to Major Rehak's supervisory counsel, the Regional Defense Counsel, pursuant to Eastern Judicial Circuit Rule 6.6.[9]

After receiving Maj Rehak's out of office email, the Government submitted an email to this court (copying detailed defense counsel and his supervisory attorney) requesting the court's direction on how to proceed forward given the defense counsel's unavailability.[10] In that email, the Government informed the Court that it was ready to proceed with the arraignment of Corporal Jesse Bopp on 30 January 2024, but given that the defense counsel for the accused is on approved leave for an indefinite period of time and presumably unavailable to conduct the arraignment, the government sought guidance from this Court on how to proceed with scheduling the arraignment in light of the Eastern Judicial Circuit Rule 4.1a[11]. The Article 6b victims[12] in this case desire to be present for all sessions of court, but live in the state of Ohio and require government facilitated travel to be present. To date, the Defense has not made a speedy trial demand. However, the Defense has objected to the two previous

[6] Enclosure 1 – Email of PTIR ICO U.S. v. Bopp
[7] Enclosure 2 – Email of Allied Papers ICO U.S. v. Bopp
[8] Enclosure 3 – Automatic reply_Allied Papers ICO U.S. v. Bopp
[9] Enclosure 4 – Email to RDC dtd 25Jan24
[10] Enclosure 5 – Email to the Court 23Jan24
[11] EJCR 4.1a: "After referral of charges, the trial counsel shall provide the EJC Clerk of Court with a copy of the referred and served charge sheet(s), convening order(s), and other allied papers within one week of referral. The documents shall be forwarded to the EJC Clerk of Court via email to ejc.clerkofcourt@usmc.mil. Counsel should seek arraignment as soon as practicable after the referral of charges."
[12] The Government previously provided the Court with a draft victim designee order on 23 January 2024.

grants of excludable delay by the Convening Authority.[13] Based on the aforementioned facts, the Government requests that the Court toll the speedy trial clock until the defense counsel is available to conduct an arraignment, or in the alternative, immediately docket an arraignment for 30 January so that the Government can arrange for the victims and accused to be present.

4. Discussion of Law and Analysis.

The Law

When an accused is ordered into pre-trial confinement, immediate steps must be taken to inform the accused of the specific offenses alleged against him, and to try the accused.[14] An accused shall be brought to trial within 120 days of preferral of charges or the imposition of pre-trial restraint.[15] The Military Judge has the authority to approve pretrial delays before and after referral.[16] Eastern Judicial Circuit Rules require trial counsel to arraign the accused as soon as practicable after referral of charges.[17]

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[13] See allied papers.

[14] Article 10, UCMJ. "(b) NOTIFICATION TO ACCUSED AND RELATED PROCEDURES.— (1) When a person subject to this chapter is ordered into arrest or confinement before trial, immediate steps shall be taken— (A) to inform the person of the specific offense of which the person is accused; and (B) to try the person or to dismiss the charges and release the person."

[15] RCM 707. "(a) In general. The accused shall be brought to trial within 120 days after the earlier of: (1) Preferral of charges; (2) The imposition of restraint under R.C.M. 304(a)(2)–(4);"

[16] RCM 707(c): "Excludable delay. All periods of time during which appellate courts have issued stays in the proceedings, or the accused is absent without authority, or the accused is hospitalized due to incompetence, or is otherwise in the custody of the Attorney General, shall be excluded when determining whether the period in subsection (a) of this rule has run. All other pretrial delays approved by a military judge or the convening authority shall be similarly excluded."

[17] After referral of charges, the trial counsel shall provide the EJC Clerk of Court with a copy of the referred and served charge sheet(s), convening order(s), and other allied papers within one week of referral. The documents shall be forwarded to the EJC Clerk of Court via email to ejc.clerkofcourt@usmc.mil. Counsel should seek arraignment as soon as practicable after the referral of charges.

Discussion

Granting delay until detailed defense counsel is available comports with the fair administration of justice. The Government is prepared to arraign the accused, but is unable to do so due to the presumed unavailability of defense counsel. In the absence of a response from the detailed defense counsel or his supervisory attorney, the Government must proceed that its assumption of its understanding of the defense's position of not being available is incorrect. The Government's obligations to comply with applicable regulations and statutes continue despite a party to the litigation being unavailable for comment or participation. Unlike the Army, the Navy Marine Corps Trial Judiciary does not have a rule which states that, "Any period of delay from the judge's receipt of the referred charges until arraignment is considered pretrial delay approved by the judge per RCM 707(c), unless the judge specifies to the contrary."[18] This is why the Government must seek relief from this Court to continue compliance with its obligations to proceed with "reasonable diligence" in bringing charges to trial,[19] absent a response or confirmation from the defense regarding unavailability. Granting the excludable delay until defense counsel is available will promote the fair administration of justice by protecting the rights of the accused to have his counsel present[20], and the Government's interest in a prosecution free from unnecessary litigation regarding speedy trial rights in this matter.[21]

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[18] "Army Rule 1.1 provides in relevant part: 'Any period of delay from the judge's receipt of the referred charges until arraignment is considered pretrial delay approved by the judge per RCM 707(c), unless the judge specifies to the contrary.'" *United States v. Guyton*, 82 M.J. 146, 152 (CAAF 2022).

[19] "It suffices to note that the touch stone for measurement of compliance with the provisions of the Uniform Code is not constant motion, but reasonable diligence in bringing the charges to trial." *United States v. Tibbs*, 15 U.S.C.M.A. 350, 353 (CMA 1965).

[20] See, *United States v. Gilmet*, 83 M.J. 398, 406-407 (CAAF 2023): "Once an attorney-client relationship has been established, the accused is 'absolutely entitled to retain [that relationship] in the absence of demonstrated good cause.'"

[21] See, *Singer v. United States*, 380 U.S. 24, 36 (1965): "The Constitution recognizes an adversary system as the proper method of determining guilt, and the Government, as a litigant, has a legitimate interest in seeing that cases in which it believes a conviction is warranted are tried before the tribunal which the Constitution regards as most likely to produce a fair result."

If the Court desires to arraign on 30 January, the Government must book travel for the victims from out of state, as well as arrange through the command to provide brig chasers to bring the accused from confinement. However, even if the logistical necessities were accomplished, it would be all for naught if the accused's counsel is not ordered to be present. To that end, the Government does not seek to have the detailed defense counsel return from leave and it is amenable to an arraignment at his convenience. However, absent a response or confirmation from the defense that this is preferable – or delay being granted by this Court – the Government is left to assume the speedy trial clock continues to run, despite the Government's readiness to proceed. Hence, the Government requests that the Court grant the requested delay until the accused's counsel is available to allow for the government counsel to confer the defense counsel and victim's legal counsel on a mutually agreed date in February to arraign the accused without the risk of that time being turned into a weapon of opportunity against the Government.

5. Relief Requested.

The Government respectfully requests this Honorable Court to grant its motion to toll the speedy trial clocks until the defense counsel is available to conduct an arraignment, or in the alternative, to docket arraignment for 30 January 2024.

6. Evidence.

a. Enclosure 1: PTIR for U.S. v. Bopp

b. Enclosure 2: Email of PTIR ICO U.S. v. Bopp

c. Enclosure 3: Email of Allied Papers ICO U.S. v. Bopp

d. Enclosure 4: Automatic reply_Allied Papers ICO U.S. v. Bopp

e. Enclosure 5: Email to RDC dtd 25Jan24

f. Enclosure 6: Email to the Court dtd 23Jan24

7. **Oral Argument.** The Government does not request oral argument.

[redacted]

Jason D. Samuel
Major, USMC
Special Trial Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Government Motion for Appropriate Relief was served electronically on defense counsel and supervisory counsel on 25 January 2024.

[redacted]

Jason D. Samuel
Major, USMC
Special Trial Counsel

AE V

Pg 6 of 6

ENCLOSURE 1

PTIR for U.S. v. Bopp

AE VI

Pg 1 of 15

EASTERN JUDICIAL CIRCUIT

PRETRIAL INFORMATION REPORT (PTIR) **Date Submitted:** 23 January 2024

Subj: U.S. v. J. T. Bopp GCM ☒ SPCM ☐ ART 32 ☐

Ref: (a) Uniform Rules of Practice for U.S. Navy-Marine Corps Trial Judiciary

Encl:

(1) Trial Management Order	☐ Attached	☐ Previously Submitted
(2) Copy of Referred Charge Sheet	☒ Attached	☐ Previously Submitted
(3) Copy of Convening Order	☒ Attached	☐ Previously Submitted
(4) Copies of Relevant Portions of Written Orders/State or Fed Statutes	☐ Attached	☐ Not Applicable
(5) Proposed Elements for State/Fed Offenses	☐ Attached	☒ Not Applicable

1. Pursuant to Rule 6.1 of reference (a), the marked enclosures and the following information are provided:

a. Requested Court Date: 30 Jan 2024 Type of Session: Article 39(a) - Arraignment

b. Previous court session? ○ Yes ◉ No If yes, MJ and date:

c. Proposed court site: Legal Services Support Section Expected duration: 1 Hours

d. Related case(s):

e. Civilian counsel:

f. Anticipated forum: ☐ MJ Alone ☐ Officer Members ☐ Enlisted & Officer Members

g. Anticipated pleas: ☐ NG (to all) ☐ G (to all) ☐ Mixed Pleas or Exceptions (Specify in Part 3).

h. Pretrial agreement? ○ ATTACHED ◉ NO ○ ANTICIPATED BY

i. (Negative) PTIR submitted by ☐ TC ☐ DC for the purpose of:

2. Trial Schedule: Parties do not Concur

	Government Proposed Dates	Defense Proposed Dates
a. Government discovery due:		
b. Defense expert witness requests due:		
c. Out-of-area witness requests / Notice of certain defenses / M.R.E. 412 notice due:		
d. Written motions by all parties due:		
e. **ARTICLE 39(a) MOTIONS DATE:**		
f. Written notice of forum and pleas / Defense witness list due:		
g. Page 58 matters (voir dire, witness lists, instructions, etc…) due:		
h. **TRIAL DATE:**		

3. Additional comments / Explanation for missing counsel signature:

TC: Maj Jason Samuel
DC: Maj Joshua Rehak
VLC: LtCol Stacy Allen

SAMUEL.JASON.DARRYL[redacted] Digitally signed by SAMUEL.JASON[redacted]
Date: 2024.01.23 14:49:21 -05'00'
Adobe Acrobat version: 2023.006.20423

Trial Counsel or Senior TC Signature

Defense Counsel Signature

Major Samuel [redacted]
Printed Name of TC & Phone Number

Major Rehak [redacted]
Printed Name of DC & Phone Number

AE VI

Pg 2 of 15

ENCLOSURE 2

Email of PTIR ICO U.S. v. Bopp

AE VI

Pg 3 of 15

From: Samuel Maj Jason D
To: Rehak Maj Joshua A
Cc: Allen LtCol Stacy M
Subject: PTIR ICO U.S. v. Bopp
Date: Tuesday, January 23, 2024 2:52:00 PM
Attachments: PTIR ICO U.S. v. Bopp.pdf

Good afternoon Maj Rehak:

Please find attached the PTIR for Cpl Bopp for your signature.

LtCol Allen is confirming whether or not her clients can be present for a 30 January arraignment.

The government is open to arraigning at the end of February if you are amenable to that and do not object to the Court stopping the RCM 707 and speedy trial clock.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Leader
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C) [redacted]
(E): jason.d.samuel.mil@usmc.mil

ENCLOSURE 3

Email of Allied Papers ICO U.S. v. Bopp

From: Samuel Maj Jason D
To: Rehak Maj Joshua A
Cc: OSTC East
Subject: Allied Papers ICO U.S. v. Bopp
Date: Tuesday, January 23, 2024 3:35:00 PM
Attachments: 34 ltr - Bopp.pdf
Art 33 Ltr - BOPPv2 (signed).pdf

Good afternoon Maj Rehak:

Please find attached the allied papers.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Leader
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
***(C):** [redacted] *
(E): jason.d.samuel.mil@usmc.mil

ENCLOSURE 4

Automatic reply_Allied Papers ICO U.S. v. Bopp

From: Rehak Maj Joshua A
To: Samuel Maj Jason D
Subject: Automatic reply: Allied Papers ICO U.S. v. Bopp
Date: Tuesday, January 23, 2024 3:35:09 PM

I am currently on paternity leave and unavailable. If this is an emergency, please contact me at 760-362-6881.

ENCLOSURE 5

Email to RDC dtd 25Jan24

From: Samuel Maj Jason D
To: Brummond LtCol Tyler Gregory
Subject: FW: PTIR ICO U.S. v. Bopp
Date: Thursday, January 25, 2024 3:02:00 PM
Attachments: PTIR ICO U.S. v. Bopp.pdf

Good afternoon sir:

I received an out of office reply from Maj Rehak shortly after I sent this him on Tuesday.

Per EJCR 6.6 I am sending this PTIR to you as supervisory counsel.

Do you have any indication when Maj Rehak will be available to conduct an arraignment? I (don't want Maj Rehak to have to come off leave unnecessarily, but I just need to provide an answer to the court given that Cpl Bopp is in pre-trial confinement.

The Government and VLC are amenable to arraigning in February. We just need Maj Rehak or yourself to confirm that is the desired COA so that we can inform the Court.

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Samuel Maj Jason D
Sent: Tuesday, January 23, 2024 2:52 PM
To: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Cc: Allen LtCol Stacy M <stacy.allen@usmc.mil>
Subject: PTIR ICO U.S. v. Bopp

Good afternoon Maj Rehak:

Please find attached the PTIR for Cpl Bopp for your signature.

LtCol Allen is confirming whether or not her clients can be present for a 30 January arraignment.

The government is open to arraigning at the end of February if you are amenable to that and do not object to the Court stopping the RCM 707 and speedy trial clock.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Leader

Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

ENCLOSURE 6

Email to the Court dtd 23Jan24

From: Workman Col Adam J
To: Samuel Maj Jason D; Lipton Maj Ryan C
Cc: Henry LtCol Nicholas S; Brummond LtCol Tyler Gregory; Allen LtCol Stacy M; Rehak Maj Joshua A; ejc.clerkofcourt; LSSS-E Regional Court Reporters; Mossor Maj William; McDonald LtCol Michael J; Rice Maj Calebe L
Subject: RE: Referred Charges (Arts. 92, 118, 119) ICO U.S. v. Cpl Bopp
Date: Thursday, January 25, 2024 10:07:59 AM

Maj Samuel,

Thank you for the referral notice.

S/f

Col Workman

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Wednesday, January 24, 2024 9:35 PM
To: Lipton Maj Ryan C <ryan.lipton@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>; Mossor Maj William <william.mossor@usmc.mil>; Workman Col Adam J <adam.j.workman1@usmc.mil>; McDonald LtCol Michael J <michael.j.mcdonald@usmc.mil>; Rice Maj Calebe L <calebe.rice@usmc.mil>
Subject: Re: Referred Charges (Arts. 92, 118, 119) ICO U.S. v. Cpl Bopp

Thank you Your Honor.

Very Respectfully,

Maj Jason Samuel - Team Leader
Office of Special Trial Counsel – Camp Lejeune

(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

Sent via Mobile

From: Lipton Maj Ryan C <ryan.lipton@usmc.mil>
Sent: Wednesday, January 24, 2024 8:37:23 PM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>; Mossor Maj William <william.mossor@usmc.mil>;

Workman Col Adam J <adam.j.workman1@usmc.mil>; McDonald LtCol Michael J <michael.j.mcdonald@usmc.mil>; Rice Maj Calebe L <calebe.rice@usmc.mil>
Subject: RE: Referred Charges (Arts. 92, 118, 119) ICO U.S. v. Cpl Bopp

Government,

Thank you. The judiciary is in receipt. Col Workman will be the detailed MJ and he is going to provide you a response tomorrow.

Very Respectfully,

Ryan C. Lipton
Major, U.S. Marine Corps
Military Judge
Eastern Judicial Circuit, Navy-Marine Corps Trial Judiciary
Office: (910) 451-7177
Clerk of Court: (910) 451-3503

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From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Tuesday, January 23, 2024 4:58 PM
To: Lipton Maj Ryan C <ryan.lipton@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>; Mossor Maj William <william.mossor@usmc.mil>; Workman Col Adam J <adam.j.workman1@usmc.mil>; McDonald LtCol Michael J <michael.j.mcdonald@usmc.mil>; Rice Maj Calebe L <calebe.rice@usmc.mil>
Subject: Referred Charges (Arts. 92, 118, 119) ICO U.S. v. Cpl Bopp

Good afternoon Your Honor:

Per EJCR 4.1a, the government is informing the court of referred charges ICO U.S. v. Bopp, and Cpl Bopp will be served with the referred charges tomorrow. The government will upload the allied papers to the judicial sharepoint site when a folder has been created.

The accused has been in pre-trial confinement since 18 October 2023. There have been three grants of excludable delay in this case: a) 30 days from the Convening Authority on 6Dec23; b) 24 days granted by the PHO in a defense Art 32 continuance on 7Dec23; and c) 30 days from the Convening

Authority on 13Jan24..

The government is prepared to arraign the accused on 30 January. However, the accused's defense counsel (Maj Joshua Rehak) is on paternity leave and has indicated that he may not be available until the end of February to arraign. The government would not presume to speak for the defense counsel on his availability. Understanding he may be out of the office and not checking email, I have cc'd the Regional Defense Counsel to this email.

While the Art. 6b victims may be available for a 30 January arraignment, the VLC (LtCol Stacy Allen) has indicated it may be preferable to them if an arraignment took place at the end of February. LtCol Allen has also been cc'd on this email. I have attached a victim designee letter for the court to sign. Both Mr. Schwenk and Ms. Christison have agreed to serve as Art. 6b designees.

The government is amenable to a February arraignment if the court would toll the RCM 707 and Art 10 clocks and not count the delay as attributable to the government.

Given the indications of availability from defense and VLC, we did not submit a PTIR for inclusion in the Regional Trial Counsel's docketing request for this week. If the court desires, we will submit a PTIR.

Thank you Your Honor and have a good evening.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Leader
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

AE VI
Pg 15 of 15

From: Workman Col Adam J
To: Samuel Maj Jason D
Cc: Henry LtCol Nicholas S; Brummond LtCol Tyler Gregory; Allen LtCol Stacy M; Rehak Maj Joshua A; ejc.clerkofcourt; LSSS-E Regional Court Reporters
Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)
Date: Friday, January 26, 2024 10:03:25 AM

Maj Samuel,

Your MFAR (Toll Speedy Trial Clock) is DENIED.

Your request for a 30 January 2024 arraignment is GRANTED. 0900 in Bldg 64-1.

If the Defense would like to file a MFAR (Continuance) I will consider it.

If the parties submit a joint MFD that would be favorably considered.

S/f

Col Workman

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Thursday, January 25, 2024 6:10 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

Good evening Your Honor:

Please find attached the Government's Motion for Appropriate Relief to toll the speedy trial clock until the detailed defense counsel is available for arraignment.

Included with the motion is a PTIR signed by the Government, and attached to this email is the latest referred charge sheet.

The supervisory counsel for the detailed counsel is also included on this email.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Leader
Office of Special Trial Counsel – Camp Lejeune

AE VII
Pg 1 of 2

(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

AE VII

Pg 2 of 2

From: Samuel Maj Jason D
To: Workman Col Adam J; Brummond LtCol Tyler Gregory
Cc: Henry LtCol Nicholas S; Allen LtCol Stacy M; Rehak Maj Joshua A
Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)
Date: Friday, January 26, 2024 2:21:00 PM

Understood Your Honor.

At this time, Government is not aware of any other counsel, military or civilian, for Cpl Bopp.

The Government is amenable to a joint motion for docketing or a continuance request should the Defense wish to submit one for our concurrence that does not attribute delay to the Government.

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Friday, January 26, 2024 2:07 PM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

Thank you Maj Samuel.

The 5th is a travel day for the EJC. Given the other parties travel and/or training on that date, it does not appear feasible.

Given that, the Court will maintain the 30 January arraignment date.

Again, a JMFD or request for a continuance would be considered.

Lastly, is Maj Rehak the only counsel detailed to this case?

Thank you.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>

Sent: Friday, January 26, 2024 1:58 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

Good afternoon Your Honor:

The Government will be available whenever the Court directs the hearing to take place. However, it is the Government's understanding, per the attachments to LtCol Brummond's email, that Maj Rehak will be coming off leave to attend Worldwide Training on 5 February, which is not located at Camp Lejeune. Additionally, it is our understanding that the Judiciary also has off-site training the week of 5-9 February, combined with the off-site Worldwide Trainings for VLCO and OSTC.

It appears from the enclosures that Maj Rehak's leave will extend from the day following Worldwide training until 1 March. Based on the information provided by the Defense, the Government does not believe that Maj Rehak will be off leave and in the same location of his client until 4 March. The RSTC just spoke with the RDC and confirmed that this is accurate.

In light of this new information, and understanding the court is disinclined to grant excludable delay without a hearing, pursuant to NMTCJ Uniform Rules of Practice 10.9, the Government asks for reconsideration of its motion to toll the speedy trial clocks until Maj Rehak is available to conduct an arraignment (likely 4 March).

If the Court is not inclined to reconsider the motion, is it the Court's intent to hold a hearing during Worldwide Training? If so, the Government will be available, pending the availability of the Art. 6b victims to be present and exercise their rights. LtCol Allen is cc'd to this email to provide any information from her clients.

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Friday, January 26, 2024 12:54 PM
To: Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

Thank you LtCol Brummond.

Government: does a 5 February arraignment date work? I am disinclined to grant excludable delay without a hearing.

Thanks.

S/f

Col W

From: Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>
Sent: Friday, January 26, 2024 12:44 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

Your Honor,

Good morning sir and thank you for cc'ing me.

Major Rehak is on approved paternity leave pursuant to MARADMIN 051/23 and pursuant to the attachments. Additionally, in accordance with EJCR 6.6, I have notified the OSTC of Major Rehak's first available day off of paternity leave which is 5 February. I have attached the notification to this email.

Does the Court need anything else for the excludable delay ruling?

Very Respectfully,
LtCol Tyler Brummond, USMC
Regional Defense Counsel - East
Camp Lejeune, North Carolina
O: 910-451-5996
C: [redacted]
tyler.brummond@usmc.mil

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From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Friday, January 26, 2024 10:03 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Brummond LtCol Tyler Gregory

<tyler.brummond@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

Maj Samuel,

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If the Defense would like to file a MFAR (Continuance) I will consider it.

If the parties submit a joint MFD that would be favorably considered.

S/f

Col Workman

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Thursday, January 25, 2024 6:10 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

Good evening Your Honor:

Please find attached the Government's Motion for Appropriate Relief to toll the speedy trial clock until the detailed defense counsel is available for arraignment.

Included with the motion is a PTIR signed by the Government, and attached to this email is the latest referred charge sheet.

The supervisory counsel for the detailed counsel is also included on this email.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Leader
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725

*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J
To: Allen LtCol Stacy M
Cc: Henry LtCol Nicholas S; Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Brummond LtCol Tyler Gregory; Samuel Maj Jason D; Danyluk Col Valerie C
Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)
Date: Monday, January 29, 2024 5:28:45 PM

Counsel,

We will arraign tomorrow at 0900 in CR 64-2. Thank you.

S/f

Col W

From: Allen LtCol Stacy M <stacy.allen@usmc.mil>
Sent: Saturday, January 27, 2024 4:16 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Danyluk Col Valerie C <valerie.danyluk@usmc.mil>
Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

Sir,

Good afternoon. My clients are available and intending to be present for the currently docketed arraignment date of 30 January. Both of my clients are ticketed and scheduled to travel to the area Monday morning. One of my clients needs to be back home by Wednesday afternoon. That client has a return flight departing the area around 1800 on Tuesday. My other client's flight home is Wednesday morning.

We can be somewhat flexible with time on Tuesday, but I would respectfully request that the arraignment go as early in the day as feasible given these travel considerations. I will file my notice of appearance with the Court on Monday.

Thank you.

V/r,
Lieutenant Colonel Stacy M. Allen
Deputy, Victims' Legal Counsel Organization
Naval Support Facility - Arlington
701 S Courthouse Road
Building 12, Office 2K045
Arlington, VA 22204
Office: (703) 604-4175

Cell: [redacted]
Email: stacy.allen@usmc.mil

From: Danyluk Col Valerie C <valerie.danyluk@usmc.mil>
Sent: Saturday, January 27, 2024 2:38 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>
Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

Your Honor,
Good afternoon. Captain Jessica McLaughlin has been detailed as co-counsel for the subject case. I respectfully request your flexibility in coordinating the timing of the arraignment as she is scheduled to be in a contested case this week at Camp Lejeune (US v Rivera).
R/
V. C. Danyluk
Col USMC
Chief Defense Counsel of
the Marine Corps
Defense Services Organization
Valerie.danyluk@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Friday, January 26, 2024 5:42 PM
To: Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Danyluk Col Valerie C <valerie.danyluk@usmc.mil>
Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

Good afternoon LtCol Brummond. I approved the Gov's request for an arraignment on 30 January. I expect a detailed counsel present. Also, as mentioned previously, I would consider a motion for a continuance.

Have a great weekend everyone.

S/f

Col W

From: Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>

Sent: Friday, January 26, 2024 4:37 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Danyluk Col Valerie C <valerie.danyluk@usmc.mil>
Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

Your Honor,

Good afternoon sir.

I believe Major Rehak's personnel status on Monday, 30 January is paternity leave as mentioned in my previous email.

Is the Court ordering Major Rehak off of his previously scheduled and approved paternity leave?

Very Respectfully,
LtCol Tyler Brummond, USMC
Regional Defense Counsel - East
Camp Lejeune, North Carolina
O: 910-451-5996
C: [redacted]
tyler.brummond@usmc.mil

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION OR ATTORNEY WORK PRODUCT
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Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

Thank you Maj Samuel.

The 5th is a travel day for the EJC. Given the other parties travel and/or training on that date, it does not appear feasible.

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Lastly, is Maj Rehak the only counsel detailed to this case?

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Col W

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To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>
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Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

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If the Court is not inclined to reconsider the motion, is it the Court's intent to hold a hearing during Worldwide Training? If so, the Government will be available, pending the availability of the Art. 6b victims to be present and exercise their rights. LtCol Allen is cc'd to this email to provide any information from her clients.

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]

(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Friday, January 26, 2024 12:54 PM
To: Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>
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Thank you LtCol Brummond.

Government: does a 5 February arraignment date work? I am disinclined to grant excludable delay without a hearing.

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Does the Court need anything else for the excludable delay ruling?

Very Respectfully,
LtCol Tyler Brummond, USMC
Regional Defense Counsel - East
Camp Lejeune, North Carolina
O: 910-451-5996
C: [redacted]
tyler.brummond@usmc.mil

AE IX
Pg 5 of 7

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION OR ATTORNEY WORK PRODUCT
This e-mail may contain attorney-client confidential information or information protected by the attorney work-product privilege and Privacy Act (5 U.S.C. § 552a) information. If you have received this communication in error, please notify the sender immediately at the above email or phone number, and delete or destroy this message.

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Friday, January 26, 2024 10:03 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

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Col Workman

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Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: Government Motion For Appropriate Relief ICO U.S. v. Bopp (Toll Speedy Trial Clock)

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Please find attached the Government's Motion for Appropriate Relief to toll the speedy trial clock until the detailed defense counsel is available for arraignment.

Included with the motion is a PTIR signed by the Government, and attached to this email is the latest referred charge sheet.

The supervisory counsel for the detailed counsel is also included on this email.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Leader
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J
To: Samuel Maj Jason D
Cc: Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Allen LtCol Stacy M; ejc.clerkofcourt; LSSS-E Regional Court Reporters
Subject: RE: TMO & Victim Designee Letter ICO U.S. v. Bopp
Date: Tuesday, January 30, 2024 6:21:54 AM

Maj Samuel,

Please print a copy of prior email correspondence to be marked as the next AE in order. Thanks.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Monday, January 29, 2024 5:45 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: TMO & Victim Designee Letter ICO U.S. v. Bopp

Good evening Your Honor:

Please find attached a proposed TMO from the government, and the victim designee order.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Leader
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
***(C):** [redacted] *
(E): jason.d.samuel.mil@usmc.mil

AE X
Pg 1 of 1

From: Brummond LtCol Tyler Gregory
To: Samuel Maj Jason D
Subject: RE: PTIR ICO U.S. v. Bopp
Date: Friday, January 26, 2024 7:24:28 AM

Major Samuel,

Good morning. I believe Major Rehak will be off of paternity leave on Monday, 5 February at the DSO WW training where he should have his laptop with him and be perfectly capable of responding to your request.

Very Respectfully,
LtCol Tyler Brummond, USMC
Regional Defense Counsel - East
Camp Lejeune, North Carolina
O: 910-451-5996
C: [redacted]
tyler.brummond@usmc.mil

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From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Thursday, January 25, 2024 3:03 PM
To: Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>
Subject: FW: PTIR ICO U.S. v. Bopp

Good afternoon sir:

I received an out of office reply from Maj Rehak shortly after I sent this him on Tuesday.

Per EJCR 6.6 I am sending this PTIR to you as supervisory counsel.

Do you have any indication when Maj Rehak will be available to conduct an arraignment? I (don't want Maj Rehak to have to come off leave unnecessarily, but I just need to provide an answer to the court given that Cpl Bopp is in pre-trial confinement.

The Government and VLC are amenable to arraigning in February. We just need Maj Rehak or yourself to confirm that is the desired COA so that we can inform the Court.

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]

AE XI
Pg 1 of 4

(E): jason.d.samuel.mil@usmc.mil

From: Samuel Maj Jason D
Sent: Tuesday, January 23, 2024 2:52 PM
To: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Cc: Allen LtCol Stacy M <stacy.allen@usmc.mil>
Subject: PTIR ICO U.S. v. Bopp

Good afternoon Maj Rehak:

Please find attached the PTIR for Cpl Bopp for your signature.

LtCol Allen is confirming whether or not her clients can be present for a 30 January arraignment.

The government is open to arraigning at the end of February if you are amenable to that and do not object to the Court stopping the RCM 707 and speedy trial clock.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Leader
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

AE XI
Pg 2 of 4

Print

REHAK, JOSHUA A. [redacted] Permissive TAD Parental Leave **Approved By:** LTCOL SUSAN E. UPWARD **Status:** In Progress

	Departure:	Return:	# Days
Requested:	23 Jan 2024 @ 0001	02 Feb 2024 @ 2359	11
Actual:	23 Jan 2024 @ 0001		0



Organization
MCAS CHERRY POINT NC
PSC BOX 8004
CHERRY POINT NC 28533
DSN 582-2002

Destination
[redacted]

Document Details

Date and Time	Contributor	File	Description
No attached files			

REQUEST TRACKING:

23 Jan 2024 @ 0816 Check Out Comment: MSGT JASON L. OWSLEY 23 Jan 2024 @ 0001.

22 Jan 2024 @ 1511 Permissive TAD Request modified and approved by: LTCOL SUSAN E. UPWARD Approved Permissive TAD Request on : 22 Jan 2024 @ 1511

22 Jan 2024 @ 1508 Assigned To: LTCOL SUSAN E. UPWARD 22 Jan 2024 @ 1508

22 Jan 2024 @ 1508 Respectfully requesting my first installment of parental leave which will be 11 days. 22 Jan 2024 @ 1508

22 Jan 2024 @ 1508 Originator: MAJ JOSHUA A. REHAK 22 Jan 2024 @ 1508

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Print

REHAK, JOSHUA A[redacted] Permissive TAD Parental Leave **Approved By:** LTCOL SUSAN E. UPWARD **Status:** Approved

	Departure:	Return:	# Days
Requested:	12 Feb 2024 @ 0001	01 Mar 2024 @ 2359	19
Actual:			0



Organization

MCAS CHERRY POINT NC
PSC BOX 8004
CHERRY POINT NC 28533
DSN 582-2002

Destination

[redacted]

Document Details

Date and Time	Contributor	File	Description
No attached files			

REQUEST TRACKING:

24 Jan 2024 @ 0821 Permissive TAD Request modified and approved by: LTCOL SUSAN E. UPWARD Approved Permissive TAD Request on : 24 Jan 2024 @ 0821

23 Jan 2024 @ 1504 Assigned To: LTCOL SUSAN E. UPWARD 23 Jan 2024 @ 1504

23 Jan 2024 @ 1504 Respectfully requesting my second installment of parental leave after worldwide training. This will take me to 30 days of 84. 23 Jan 2024 @ 1504

23 Jan 2024 @ 1504 Originator: MAJ JOSHUA A. REHAK 23 Jan 2024 @ 1504

NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

U N I T E D S T A T E S **v.** **JESSE T. BOPP** **CORPORAL, USMC**	**APPOINTMENT OF DESIGNEE** **IAW R.C.M. 801(a)(6)** **30 Jan 2024**

1. **Nature of Order**. Pursuant to Rule for Court-Martial 801(a)(6), the Court shall appoint a designee to represent victims of offenses under the UCMJ who are incapacitated, incompetent, or deceased. In this case, Lance Corporal Austin Schwenk, USMC, the named victim of an offense alleged on the charge sheet, is deceased. The Government recommends the minor's mother, Ms. Kassandra Christison, and his father, Mr. Robert Schwenk, be appointed as designees under the Rule.

2. **Findings of Fact:** The Court makes the following findings of fact:

a. LCpl Schwenk became a victim for the purposes of R.C.M 801(a)(6) during the charged timeline in charges I-III.
b. The proposed designees, Ms. Kassandra Christison and Mr. Robert Schwenk, are the natural parents of the deceased victim.
c. The proposed designees are over 18 years old and are otherwise competent.
d. No costs are expected, other than travel costs, should the proposed designees desire to exercise the right under Article 6b to be present at sessions of court.
e. The proposed designees expressed willingness, via trial counsel, to serve as representative of LCpl Schwenk.
f. There is no delay anticipated with the appointment of the proposed designees.
g. Trial counsel recommends the appointment of the proposed designees.

3. **Rights of the Designee:** In addition to the rights conferred upon a victim under Article 6(b) of the UCMJ, the rights that a designee may exercise on behalf of a victim include:

a. The right to receive notice of public hearings in the case;
b. The right to be reasonably heard at such hearings, if permitted by law; and
c. The right to confer with counsel representing the government at such hearings.

4. For purposes of this order, a public hearing or proceeding under this instruction shall include any hearing or procedure which is open to the public generally or which has not been closed by competent authority. Personal appearance by the victims is not necessary to satisfy the right to be reasonably heard. The right to be reasonably heard may ordinarily be accomplished by telephonic, written, or other means.

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5. While all reasonable efforts shall be made to ensure these rights are afforded to the victims/designees, in no case shall the rights of the accused be infringed or the administration of justice be unduly prejudiced.

6. **Order.** The Court **ORDERS** that Ms. Kassandra Christison and Mr. Robert Schwenk be appointed as the designees of LCpl Schwenk within the meaning of R.C.M. 801(a)(6). Trial counsel will provide a copy of this order to the designees.

So **ORDERED** this 30th day of January, 2024.

A. J. Workman
Colonel, U.S. Marine Corps
Military Judge

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NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES V. JESSE BOPP CORPORAL USMC	DEFENSE MOTION FOR APPROPRIATE RELIEF (Motion to Continue Trial) 25 April 2024

MOTION

Pursuant to Rules for Courts-Martial (R.C.M.) 906, Defense respectfully moves the Court to continue the General Court-martial in the case of U.S. v. Corporal Jesse Bopp.

FACTS

1. Corporal Bopp (Cpl) has been charged with on specification of violating Article 92, UCMJ, Violation of a Lawful General Order; one specification of violating Article 118, UCMJ, Murder - Act Inherently Dangerous to Another; and one specification of violating Article 119, UCMJ, Involuntary Manslaughter.

2. On 5 March 2024, Cpl Jesse Bopp was arraigned.

3. At the arraignment, Government and Defense did not agree on a date for trial.

4. After an 802 conference, all parties agreed on trial dates for 16-30 October 2024.

5. On 20 March 2024, the Military Judge signed a TMO for 16-30 October 2024.

6. On 16 April 2024, the Military Judge emailed the parties ordering new trial dates – 2-16 October 2024, citing judiciary training as the reasoning for the change.

7. One of the two Defense Counsel, Capt McLaughlin, will be standing up in an out of state wedding on 12 October 2024. She is set to travel on 11 October 2024.

8. Additionally, in August 2024 alone, Capt McLaughlin has two General Court Martials scheduled.

9. Victim's legal counsel also voiced that starting trial on 2 October 2024 conflicts with her clients' schedules.

10. Because of these scheduling issues, on 24 April 2024, Trial Counsel, Defense Counsel, and Victim's Legal Counsel had a conference call to discuss potential dates that all parties could agree on.

10. All parties agreed they were available 4-18 November 2024.

11. The Government also proposed shifting the trial to an earlier date, starting 26 September 2024, which Defense stated they believed was unreasonable and would not support given the state of the evidence.[1]

12. On 25 April 2025, Trial Counsel emailed the parties asking Victim's Legal Counsel if their clients were amenable to starting 26 September.

13. Victim's Legal Counsel told the parties that her clients prefer 4-18 November trial date due to personal scheduling conflicts that were set prior to the changes in the schedule.

14. Defense prefers the 4-18 November trial date.

15. The Government is available 4-18 November.

BURDEN

[1] On 23 April 2024, the Government applied to this Court for a warrant from Discord in this case. The warrant was signed by the Military Judge on 24 April 2024. The return has not yet been discovered to the Defense, and as of this filing, presumably has not been provided to the Government.

As the moving party, the Defense has the burden of proof by a preponderance of the evidence.

LAW

In *United States v. Allen*, 31 M.J. 572 (N.M.C.R. 1990) the court addressed the granting of continuances broadly. The *Allen* court advised "law officers to carefully consider a continuance motion and 'if it appears reasonable that it is not made on frivolous grounds or solely for delay, the request should ordinarily be granted.'" *Id.* at 620. (citing *United States v. Nicholas*, 2 U.S.C.M.A. 27 (1952)). The moving party "must show by a preponderance of the evidence that prejudice to the substantial rights of the moving party would occur if a continuance were not granted." *Id.* (citing *United States v. Dunks*, 1 C.M.A. 1976).

Further, Article 40, UCMJ authorizes a military judge to grant a continuance, for reasonable cause, to any party as often as may appear just. In determining whether a continuance is appropriate under the circumstances of a particular case, the factors articulated in *United States v. Miller* are useful. The factors are: (1) "surprise, nature of any evidence involved, timeliness of the request, substitute testimony or evidence, (2) availability of witness or evidence requested, (3) length of continuance, (4) prejudice to opponent, (5) moving party received prior continuances, (6) good faith of moving party, (7) use of reasonable diligence by moving party, (8) possible impact on verdict, and (9) prior notice." United States v. Miller, 47 M.J. 352, 358, (C.A.A.F. 1997).

ARGUMENT

As it is currently scheduled, one of the two Defense counsels will be traveling out of state, mid-murder trial to stand in a wedding. To adequately prepare a defense for any General Court Martial requires extensive hours that usually go through the weekend. To adequately

prepare to defend Cpl Bopp, that will undoubtedly be the case. Additionally, given the nature of the charges and the nature of the victims in this case, Defense been particularly cognizant of the victim's schedules as well. Both Defense and VLC have come to an agreement that 4-18 November is the case the works best for everyone's schedule. And, while the Government is available at that time, they have refused to come to an agreement. The Government is continuing to investigate this case, as is clear by their recent warrant application. Furthermore, this is the first and only continuance request. The length of the continuance is only a few additional days from the originally scheduled trial dates. Therefore, it is illogical to move the trial to a sooner date because the return from Discord will likely create new witnesses and evidence that will need to be investigated by both parties.

The Defense has diligently attempted to come to a scheduling agreement with the Government, but ultimately failed. Such request is of no surprise to the Government and has no impact on witness or evidence availability. In fact, as the Government continues to investigate their case and make new evidence that the Defense must meet, moving the dates to a later time ensures that witnesses will be available and that another continuance will not be needed.

RELIEF REQUESTED

For the aforementioned reasons, the Defense respectfully requests to move the trial to 4-18 November.

WITNESSES

The Defense requests the following witnesses in support of this motion:

1. Ms. Kassandra Christison
2. Mr. Robert Shwwnk, Jr.

EVIDENCE

The Defense submits the following evidence in support of their motion:

Enclosure 1: Emails Regarding Continuance Request

[redacted]

JOSHUA REHAK
Major, U.S. Marine Corps
Defense Counsel

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U.S. v. CORPORAL JESSE T. BOPP

Defense Motion for Appropriate Relief

Continuance Request

Enclosure 1: Emails Between Defense, OSTC, and VLC

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ENCLOSURE

1

Rehak Maj Joshua A

From: Samuel Maj Jason D
Sent: Thursday, April 25, 2024 5:10 PM
To: Rehak Maj Joshua A
Cc: Mclaughlin Capt Jessica L; Allen LtCol Stacy Marie
Subject: RE: Trial Date Availability
Signed By: jason.d.samuel.mil@usmc.mil

That is correct.

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Sent: Thursday, April 25, 2024 4:55 PM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>
Subject: RE: Trial Date Availability

Major Samuel,

As discussed on the phone my understanding is that the government will not join in a continuance. Is that correct?

V/r,

Joshua A. Rehak
Major, USMC
Senior Defense Counsel
MCAS Cherry Point
(o)252-466-4873
(c)[redacted]

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From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Thursday, April 25, 2024 3:53 PM
To: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Cc: Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>
Subject: RE: Trial Date Availability

Good afternoon Maj Rehak:

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In order to remedy the stated conflict for Capt Mclaughlin's availability for the currently docketed trial dates, the Government is amenable to moving the trial to start on 26 September - which is already a docketed 39a date – and to break 11-15 October to accommodate Capt Mclaughlin's leave. Based on the representations of all parties, there are no scheduling conflicts with that COA.

The Government is not inclined to join a continuance to the November dates given that the proposed 4-18 November dates contain the MCI-East Veteran's Day 96 from 8 to 13 November, which may limit the trial to potentially 8 working days. Additionally, based on representations from the Defense during our phone-call yesterday that there may be potential undisclosed conflicts with a November date as well, the Government feels there is a more feasible trial date to be had if we go in September.

The Government is available on the currently docketed trial dates, the proposed 26 September start date, and the Defense proposed 4-18 November dates as well.

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Allen LtCol Stacy Marie <stacy.allen@usmc.mil>
Sent: Thursday, April 25, 2024 3:19 PM
To: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>
Subject: RE: Trial Date Availability

Jason,

Good afternoon. I just received input from both clients that the November dates are preferred from the reasons I described below.

V/r,
Lieutenant Colonel Stacy M. Allen
Deputy, Victims' Legal Counsel Organization
Naval Support Facility - Arlington
701 S Courthouse Road
Building 2, Office 1D130B
Arlington, VA 22204
Office: (703) 697-8602
Cell: [redacted]
Email: stacy.allen@usmc.mil

From: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Sent: Thursday, April 25, 2024 2:51 PM
To: Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>
Subject: RE: Trial Date Availability

You are correct Ma'am. We will not request September dates.

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V/r,

Joshua A. Rehak
Major, USMC
Senior Defense Counsel
MCAS Cherry Point
(o)252-466-4873
(c)[redacted]

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From: Allen LtCol Stacy Marie <stacy.allen@usmc.mil>
Sent: Thursday, April 25, 2024 2:43 PM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Subject: RE: Trial Date Availability

Jason,

Good afternoon. I did not ask about September specifically because I recall that being a non-starter for Defense so didn't think it would inform the joint motion for continuance. Separately, Kaci is on vacation until at least 23 September, so I anticipate we would run into the same issues we are facing at least with respect to the first week in October. To that end, I will ask to ensure we have covered all bases.

V/r,
Lieutenant Colonel Stacy M. Allen
Deputy, Victims' Legal Counsel Organization
Naval Support Facility - Arlington
701 S Courthouse Road
Building 2, Office 1D130B
Arlington, VA 22204
Office: (703) 697-8602
Cell: [redacted]
Email: stacy.allen@usmc.mil

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Thursday, April 25, 2024 2:22 PM
To: Allen LtCol Stacy Marie <stacy.allen@usmc.mil>
Cc: Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Subject: RE: Trial Date Availability

Good afternoon ma'am:

Did your clients have availability in September as well? Was that amenable to them?

V/R,
Maj Samuel

(O): 910-451-9725

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(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Sent: Thursday, April 25, 2024 2:11 PM
To: Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>
Subject: RE: Trial Date Availability

Good afternoon Ma'am,

Thank you.

Major Samuel, over to you for the government's position. We can draft the joint motion now and send for signature.

V/r,

Joshua A. Rehak
Major, USMC
Senior Defense Counsel
MCAS Cherry Point
(o)252-466-4873
(c) [redacted]

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From: Allen LtCol Stacy Marie <stacy.allen@usmc.mil>
Sent: Thursday, April 25, 2024 1:56 PM
To: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>
Subject: Trial Date Availability

All,

Good afternoon. I received confirmation from both of my clients that 4-18 November would work and in at least one client's case was extremely preferable over the existing or previously scheduled October dates.

V/r,
Lieutenant Colonel Stacy M. Allen
Deputy, Victims' Legal Counsel Organization
Naval Support Facility - Arlington
701 S Courthouse Road
Building 2, Office 1D130B
Arlington, VA 22204
Office: (703) 697-8602
Cell: [redacted]
Email: stacy.allen@usmc.mil

AE XIV
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DEPARTMENT OF THE NAVY
NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES v. JESSE T. BOPP CORPORAL/E-4 U.S. MARINE CORPS	**GOVERNMENT RESPONSE TO DEFENSE MOTION FOR CONTINUANCE** 1 May 2024

1. Nature of Motion.

While the Government does not join the Defense request for a continuance because the Government is available on the currently docketed trial dates, the Government does not oppose the Defense request.

2. Burden of Proof and Persuasion.

As the moving party, the Defense bears the burden of proof and persuasion.[1]

3. Summary of Facts.

On 18 October 2023, Corporal Jesse Bopp shot and killed Lance Corporal A.S.[2] He was taken into custody later that day and placed into pre-trial confinement on 19 October 2023. Charges were preferred against him on 29 November 2023.[3] An Article 32 Preliminary Hearing was held 3 January 2024. On 19 January 2024, the Convening Authority referred his charges to this general court-martial. Immediately thereafter, the Government sought to arraign the accused, an effort which was the subject of a Motion to Toll the Speedy Trial Clock due to Defense Counsel unavailability. On 30 January 2024, the Court attempted to

[1] R.C.M. 905(c)
[2] Names of victims and witnesses will be redacted IAW EJCR 7.3.
[3] Charge Sheet

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arraign the accused. Because all of the accused's detailed counsel were not present at that hearing, the Defense requested that the Court grant a continuance to 5 March 2024, the first date when all detailed defense counsel could be present to conduct the arraignment. The Court granted the Defense continuance request. The accused was arraigned on 5 March 2024. On 22 March 2024 the Military Judge signed a Trial Management Order docketing trial for 16-30 October 2024. On 16 April 2024, the Military Judge *sua sponte* alerted the Parties to a conflict the Court had with the 16-30 October trial dates and in the same correspondence changed the docketed trial dates to 2-16 October 2024. Due to defense counsel conflicts with the new trial dates, the Defense filed its second request for a continuance on 25 April 2024.

4. Discussion of Law and Analysis.

The Law

"The military judge…may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just."[4] "Ordinarily, no court-martial proceeding should take place if any defense or assistant defense counsel is absent unless the accused expressly consents to the absence."[5]

Discussion

The Military Judge may find it just to grant this Defense continuance given the potential absence of one of the accused's detailed counsel during the newly docketed trial dates. The Government is ready to proceed to trial.[6] The Government's expert witnesses are available on

[4] Article 40, UCMJ.
[5] R.C.M. 804(d) *Discussion.*
[6] The Government proposed beginning the trial on 26 September – an already docketed court date – and taking any requisite breaks during the conduct of the trial to permit detailed defense counsel to participate in the wedding, as a potential solution to the Defense conflict. While the Government is available for trial on that date, it is not making a request to the Court to docket the trial on that date.

the currently docketed dates and on the proposed Defense requested dates of 4-18 November. Based on the representations of both current Victims Legal Counsel, the victims are available for the Defense requested dates and may have some conflicts with the 2-16 October trial dates. While the Government does not join the Defense continuance request because it is currently ready to go to trial, it also does not oppose the Defense request and anticipates the Court will and should grant their second request for a continuance.

5. **Relief Requested.**

The Government does not oppose the Court granting the second Defense continuance.

6. **Evidence.** No additional evidence.

7. **Oral Argument.** The Government does not request oral argument.

[redacted]
Jason D. Samuel
Major, USMC
Special Trial Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Government Motion for Appropriate Relief was served electronically on all parties on 1 May 2024.

[redacted]
Jason D. Samuel
Major, USMC
Special Trial Counsel

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Samuel Maj Jason D

From: Workman Col Adam J
Sent: Thursday, May 2, 2024 3:36 PM
To: Samuel Maj Jason D
Cc: Rehak Maj Joshua A; Mclaughlin Capt Jessica L; ejc.clerkofcourt; OSTC East; LSSS-E Regional Court Reporters; Cavallaro Capt Stefano J; Kim Capt Christophe C
Subject: RE: Government Response to Defense Motion for Continuance ICO U.S. v. Bopp
Attachments: Bopp TMO Final3.0 SIGNED.pdf
Signed By: adam.j.workman1@usmc.mil

Counsel,

The Defense MFAR is GRANTED. Given there are no other motions pending before the Court the 39(a) next week is cancelled.

S/f

Col w

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Wednesday, May 1, 2024 11:18 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Kim Capt Christophe C <christopher.c.kim@usmc.mil>
Subject: Government Response to Defense Motion for Continuance ICO U.S. v. Bopp

Good morning Your Honor:

Please find attached the Government response. The Government does not oppose the continuance and it does not request oral argument.

The Government has included all VLCs who have filed notices of representation to this email. It has also confirmed with the new VLCs that their respective clients' preferences regarding this continuance have not changed.

The Government is prepared to cancel travel for the victims as soon as the Court rules on the motion.

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Sent: Friday, April 26, 2024 12:05 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>;

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ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Good evening Your Honor,

Please find attached the defense MFAR Continuance Request and enclosures which have been uploaded to the TEAMS page as well.

I did not want to speak directly for the VLC or her client's in our motion, but I do anticipate calling them on 7 May or updating our filing enclosures to reflect their position in more detail. It is our understanding that September dates proposed by the government and the newly docketed October dates do not work for LCpl Schwenk's family, and while they will ultimately make any dates work, the November dates would be highly preferred due to prior commitments.

V/r,

Joshua A. Rehak
Major, USMC
Senior Defense Counsel
MCAS Cherry Point
(o)252-466-4873
(c)[redacted]

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From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Tuesday, April 23, 2024 10:20 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Cc: Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Maj Samuel,

The filing deadlines below are so ORDERED by the Court. Thank you.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Tuesday, April 23, 2024 9:13 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Cc: Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters

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<LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Received, Your Honor.

We will talk to the defense offline to discuss their trial date conflicts and potential motion for a continuance.

Pursuant to the TMO, there is a docketed 39a session scheduled for the week of 6-10 May. However, there are no Court ordered filing deadlines for that 39a session. In the event that the parties are unable to reach a joint motion, the Government requests that the following motions filing deadlines be ordered by the Court to facilitate resolution of this issue and arranging for travel for the victims to be present at the 39a:

Motions Filed: **25 April**
Motions Response: **2 May**
39a: **7 May**

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Tuesday, April 23, 2024 8:37 AM
To: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Counsel,

Copy all. Maj Rehak is taking the correct approach which is to address the issue in the form of a motion, and as he has acknowledged, a joint motion is preferrable.

S/f

Col W

From: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Sent: Tuesday, April 23, 2024 8:33 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Workman Col Adam J <adam.j.workman1@usmc.mil>; Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Good morning Major Samuel,

AE XVI
Pg 3 of 11

I never said we do not have conflicts. We do in fact have conflicts, and we will litigate that appropriately through motions with our current TMO. Or, if the government and VLC are seeking a change, I suggest we discuss those changes before involving the Court in an 802.

V/r,

Joshua A. Rehak
Major, USMC
Senior Defense Counsel
MCAS Cherry Point
(o)252-466-4873
(c) [redacted]

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From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Monday, April 22, 2024 4:53 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Your Honor:

If the Defense does NOT have a scheduling conflict with the new trial dates, then there is no need for an 802.

The Government does not have a scheduling conflict with the new dates.

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Sent: Monday, April 22, 2024 4:51 PM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Good afternoon Your Honor,

AE XVI
Pg 4 of 11

We are not opposed to an 802, but I am not sure if one is necessary at this time. I have not received any emails from the government asking about scheduling issues, but if there are, I believe the parties can talk before bringing it to the Court.

V/r,

Joshua A. Rehak
Major, USMC
Senior Defense Counsel
MCAS Cherry Point
(o)252-466-4873
(c)[redacted]

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From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Monday, April 22, 2024 4:02 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Good Afternoon Your Honor:

During our previous meet and confer with the Defense and VLC last month, there were some scheduling issues raised with regard to an early October trial. I have spoken to the VLC and those issues can likely be worked around. However, the Defense has not yet confirmed that those conflicts no longer exist.

The Government requests that the Court hold an 802 for all parties to discuss feasible trial dates, or in the alternative that all parties acknowledge that there are no conflicts for the new dates of 2-16 October.

Does the Court have time this week for an 802 conference to discuss?

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Wednesday, April 17, 2024 2:29 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin

AE XVI
Pg 5 of 11

Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: Re: Draft TMO ICO U.S. v. Bopp

Received Your Honor. Thank you.

Very Respectfully,

Maj Jason Samuel - Team Lead
Office of Special Trial Counsel – Camp Lejeune

(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil
Sent via Mobile

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Tuesday, April 16, 2024 9:52:08 AM
To: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Counsel,

As we discussed in the 802, the NMCTJ has training 20-24 October. I failed to account for that when I signed the drafted TMO. I have now revised the TMO accordingly by shifting the trial dates two weeks earlier. We'll break for Columbus Day as the mission allows. Thank you for your understanding.

S/f

Col W

From: Workman Col Adam J
Sent: Friday, March 22, 2024 11:05 AM
To: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Counsel,

I have signed the final TMO. This TMO has the dates proposed by the G.

Please note that I acknowledge Maj Rehak's concerns and I would advise the parties that outstanding discovery may be considered favorably as good cause for any expert requests/motions filed outside of these deadlines. Especially as it might pertain witnesses and forensic evidence.

S/f

AE XVI

Pg 6 of 11

Col W

From: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Sent: Wednesday, March 20, 2024 4:43 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Good afternoon Your Honor,

Without getting too specific or trying to litigate via 802, I want to bring the Court's attention to two matters for why we disagree over the expert consultation requests and the TMO.

First, while we were provided discovery prior to the Art. 32 (approximately 1072 bate stamped discovery including pictures thousands of pictures and hours of videos), since the Art. 32, we have been provided approximately 630 more bate stamped discovery including pictures and videos. However, importantly, we have not received any discovery regarding fingerprints for the firearm and magazine which are being done by USACIL and digital evidence from LCpl A.S.'s Apple iPhone, Acer laptop, and Apple iPad which are being completed by government agencies. These items will take time. Depending on the outcome and methods used, defense might need an expert on these matters. Further, NCIS, to my knowledge, is still conducting interviews of witnesses and locating potential witnesses who were online gaming with LCpl A.S. when the incident occurred.

Second, without having a response to our discovery request and disclosures from the government, it is not practicable to know exactly what experts we intend to employ. The government is misunderstanding what was presented at the arraignment. While we certainly can presume about the disciplines that we will need an expert for, defense is not in communication with any experts at this time regarding this case mainly because we have not seen the results of the testing on the items mentioned above.

Please find attached our proposed TMO.

V/r,

Joshua A. Rehak
Major, USMC
Senior Defense Counsel
MCAS Cherry Point
(o)252-466-4873
(c)[redacted]

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From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Wednesday, March 20, 2024 11:21 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua

AE XVI
Pg 7 of 11

A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Copy, thanks.

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Wednesday, March 20, 2024 11:18 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Sir:

Per the MARADMIN, 21-24 October are not training dates for the regions. We are unaware of any worldwide training for the various organizations during that week.
FY24 MILITARY JUSTICE TRAINING CALENDAR > United States Marine Corps Flagship > Messages Display (marines.mil)

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Wednesday, March 20, 2024 11:13 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Thank you Maj Samuel. The trial judiciary has training scheduled 21-24 October. Does OSTC and the DSO have training during the same time?

I will await the Defense's proposals.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Wednesday, March 20, 2024 11:10 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua

AE XVI
Pg 8 of 11

A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: Draft TMO ICO U.S. v. Bopp

Good morning Your Honor:

Please find attached the Government's draft TMO. It was provided to all parties on Monday following the post-802 meeting between all interested parties.

All parties are in agreement on the 39a dates of: 16 Apr, 17 Jun, 12 Aug, 26 Sep, and trial dates of 16-30 October 2024.

All parties have availability for a potential 39a if required the week of 6-10 May, with preferred dates of 6 or 7 May if ordered by the Court.

The Government and the Defense do NOT agree on the deadlines for expert consultant requests, answers, and motions to compel. The Government's position is reflected in the proposed TMO. We discussed with the Defense that they could then provide you with their proposed dates for those deadlines without having to draft an entirely new TMO that is 85% the same. Because the parties are available 6-10 May, and then not available again until June, the Government believes it would be best to litigate expert consultants on 16 April, which would allow for consultation to take place during 6-10 May.

The Government position on the expert consultant dates is that given the robust discovery provided pre-Article 32 and before referral in this case, the 16 April litigation date reasonably allows all expert consultant requests to be received, answered, and if necessary, litigated. The Government also believes this timeline is reasonable given the Defense assertion at arraignment, and again at the 802, that they have identified between three and five experts they are looking at. Finally, early litigation of the consultation makes it substantially more likely that if, and when, expert witnesses are ordered, they will be available during the October trial dates, since the Government is already agreeing to a prolonged TMO.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

AE XVI
Pg 9 of 11

Samuel Maj Jason D

From:	Workman Col Adam J
Sent:	Wednesday, May 29, 2024 9:24 AM
To:	Samuel Maj Jason D
Cc:	OSTC East; ejc.clerkofcourt; LSSS-E Regional Court Reporters; Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Kim Capt Christophe C; Cavallaro Capt Stefano J; Chasity Fair; Guilds, Ryan
Subject:	RE: NCORS Utilization ICO U.S. v. Bopp
Signed By:	adam.j.workman1@usmc.mil

Maj Samuel,

Good morning. Your previous request for 10 July defense lay witness requests, and 24 July for the government response, is GRANTED. Additionally, I have not received any ex parte requests from the Defense.

NCORS is not mandatory for this case. We will continue to utilize TEAMS and Outlook.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Wednesday, May 29, 2024 8:55 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: OSTC East <OSTCEAST@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Kim Capt Christophe C <christopher.c.kim@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>
Subject: NCORS Utilization ICO U.S. v. Bopp

Good morning Your Honor:

In accordance with your email direction to the regional supervisors on 11 April concerning NCORS case entry, and Judge Advocate Division's guidance to not duplicates cases started in Wolverine within NCORS, the Government has not created an NCORS case file for U.S. v. Bopp.

Given that tomorrow is a motions filing deadline, the Government seeks to confirm that the Court is **not** mandating NCORS utilization for this case. If that is inconsistent with the Court's desire, we request to know as soon as possible so that the Government can create a case file and try to push it through to the Defense so that all parties can be in compliance with the TMO.

Thank you sir.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead

AE XVI
Pg 10 of 11

Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

AE XVI
Pg 11 of 11

DEPARTMENT OF THE NAVY
NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES v. JESSE T. BOPP CORPORAL/E-4 U.S. MARINE CORPS	**GOVERNMENT MOTION *IN LIMINE* (LAWFULNESS OF ORDER)** 30 May 2024

1. Nature of Motion.

The Government requests the Court take judicial notice that Marine Corps Installations East – Marine Corps Base Camp Lejeune Order 5500.1A (MCI-MCB CAMLEJO 5500.1A) is a lawful order and was in effect on 18 October 2023.

2. Burden of Proof and Persuasion.

As the moving party, the Government bears the burden of proof and persuasion.[1]

3. Summary of Facts.

On 18 October 2023, Corporal Jesse Bopp shot and killed Lance Corporal A.S.[2] He was taken into custody later that day and placed into pre-trial confinement on 19 October 2023. Charges were preferred against him on 29 November 2023.[3] An Article 32 Preliminary Hearing was held 3 January 2024. On 19 January 2024, the Convening Authority referred his charges to this general court-martial. The accused was arraigned on 5 March 2024.

The order at issue for Charge I and its sole specification is: Marine Corps Installations East – Marine Corps Base Camp Lejeune Order 5500.1A. This order was re-issued and

[1] R.C.M. 905(c)
[2] Names of victims and witnesses will be redacted IAW EJCR 7.3.
[3] Charge Sheet

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Pg 1 of 4

published on 16 August 2021 by the Commanding General of Marine Corps Installations East-Marine Corps Base Camp Lejeune.[4] This order was published on the MCI-East website[5] and in effect on 18 October 2023. MCI-MCB CAMLEJO 5500.1A was signed by Colonel M.J., who was the Chief of Staff for Marine Corps Installations East – Marine Corps Base Camp Lejeune. Colonel M.J. was authorized to sign on behalf of the Commanding General using his title, Chief of Staff, pursuant to MCIEAST-MCB CAMLEJO 5000.1A,[6] and MCIEAST-MCB CAMLEJO 5400.1A.[7]

The original order was published on 8 May 2015 as MCI-MCB CAMLEJO 5500.1 and signed by the commander of Marine Corps Installations East – Marine Corps Base Camp Lejeune, Brigadier General R.C.[8] This order originated in response to MARADMIN 176/14 directing all installation commanders to promulgate regulations governing the possession and use of privately owned firearms on Marine Corps installations.[9]

4. Discussion of Law and Analysis.

The Law

A general officer in command has the authority to issue general orders or regulations.[10] It is not necessary for the commander issuing the general order to sign it personally so long as the decisional authority remains with the commander.[11] "The signature authority…is wholly

[4] Enclosure 1: MCI-MCB CAMLEJO 5500.1A
[5] https://www.mcieast.marines.mil/Staff-Offices/Adjutant/Orders/5000/
[6] Enclosure 2: MCIEAST-MCB CAMLEJO 5000.1A., Enclosure 1, "Chief of Staff (Authorized to sign by 'Title' vice 'By direction')."
[7] Enclosure 3: MCIEAST-MCB CAMLEJO 5400.1A, Chapter 1, Paragraph 6(c), "The establishment of policy rests with the CG. The staff may recommend new policies, as well as modifications or revisions to existing policies. The CG, Dep Comdr, or Chief of Staff (COS) will sign all directives."
[8] Enclosure 4: MCI-MCB CAMLEJO 5500.1
[9] Enclosure 5: MARADMIN 176-14
[10] MCM Paragraph 18(c)(1)(a)(ii).
[11] "It is not necessary for the commander issuing a general regulation to sign it personally. 'So long as 'the decisional authority, which is discretionary in nature, remains with the commander.'" *United States v. Ayers*, 54 M.J. 85, 90 (CAAF 2000).

ministerial in nature."[12] A general order is entitled to the presumption of regularity if it appears to be regular on its face,[13] and is presumed to be lawful unless it is contrary to the Constitution, the laws of the United States, lawful superior orders, or if the issuing official does not have the authority to issue the order.[14] The general order is valid even if there is a change of command.[15] Knowledge of the order is not an element of the offense.[16] "A general regulation is a proper subject of judicial notice."[17] "The military judge must take judicial notice if a party requests it and the military judge is supplied with the necessary information."[18]

Discussion

MCI-MCB CAMLEJO 5500.1A is a lawful order and the Court should judicially notice it. The order was signed on behalf of the Commanding General by his Chief of Staff, Colonel Jernigan, pursuant to his authority in MCIEAST-MCB CAMLEJO 5000.1A and MCIEAST-MCB CAMLEJO 5400.1A. The order does not run afoul of the Constitution, laws of the United States, or any other superior order. It has been properly published on the Marine Corps Installations East website. Given the information supplied here, this Court should take judicial notice that MCI-MCB CAMLEJO 5500.1A is a lawful order and was in effect on 18 October 2023.

5. Relief Requested.

The Government respectfully requests that this Court take judicial notice of MCI-MCB

---

[12] *United States v. Ayers*, 54 M.J. 85, 90 (CAAF 2000).
[13] "An official document…is entitled to a presumption of regularity if it appears regular on its face." *United States v. Ayers*, 54 M.J. 85, 91 (CAAF 2000).
[14] MCM Paragraph 18(c)(1)(c).
[15] MCM Paragraph 18(c)(1)(b).
[16] MCM Paragraph 18(c)(1)(d).
[17] "A general regulation is a proper subject of judicial notice." *United States v. Ayers*, 54 M.J. 85, 90 (CAAF 2000).
[18] M.R.E. 201(c)(2).

CAMLEJO 5500.1A.

6. **Evidence.**

   a. Enclosure 1: MCI-MCB CAMLEJO 5500.1A

   b. Enclosure 2: MCIEAST-MCB CAMLEJO 5000.1A.

   c. Enclosure 3: MCIEAST-MCB CAMLEJO 5400.1A

   d. Enclosure 4: MCI-MCB CAMLEJO 5500.1

   e. Enclosure 5: MARADMIN 176-14

7. **Oral Argument.** The Government requests an opportunity to respond to any argument made by Defense Counsel.

[redacted]
Jason D. Samuel
Major, USMC
Special Trial Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Government Motion for *In Limine* was served electronically on defense counsel on 30 May 2024.

[redacted]
Jason D. Samuel
Major, USMC
Special Trial Counsel

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Pg 4 of 4

ENCLOSURE 1

MCI-MCB CAMLEJO 5500.1A

Possession, Registration, Use, And Sale Of Privately Owned Firearms, Weapons, Ammunition, Explosives, Fireworks And Pyrotechnics

(16 August 2021)

AE XVIII

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UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE
PSC BOX 20005
CAMP LEJEUNE NC 28542-0005

MCIEAST-MCB CAMLEJO 5500.1A
SES/PMO
AUG 16 2021

MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE CAMP LEJEUNE ORDER 5500.1A

From: Commanding General
To: Distribution List

Subj: POSSESSION, REGISTRATION, USE, AND SALE OF PRIVATELY OWNED FIREARMS, WEAPONS, AMMUNITION, EXPLOSIVES, FIREWORKS, AND PYROTECHNICS

Ref: (a) 18 U.S.C. §13, Federal Assimilative Crimes Act
(b) 18 U.S.C. §922, Unlawful Acts
(c) General Statutes of North Carolina (NOTAL)
(d) MCO 5530.14A
(e) MCO 5500.6H Ch 1
(f) MARADMIN 719/19
(g) MARADMIN 176/14

Encl: (1) MCIEAST-MCB CAMLEJ Weapons Registration Form
(2) Firearms Regulations Acknowledgment Letter
(3) North Carolina General Statute §14-315.1

1. Situation. The unlawful sale, use and possession of privately owned firearms, weapons, ammunition, explosives, fireworks and pyrotechnics threaten the good order and discipline vital to the mission of Marine Corps Installations East-Marine Corps Base, Camp Lejeune (MCIEAST-MCB CAMLEJ). This necessitates implementation of regulations to protect the resources of MCB CAMLEJ; references (a) through (g) apply.

2. Cancellation. MCIEAST-MCB CAMELJO 5500.1 Ch 1.

3. Mission. This Order outlines the regulations concerning the possession, registration, transportation, storage, use and sale of privately owned firearms, weapons, ammunition, explosives, fireworks, and pyrotechnics by all personnel aboard MCB CAMLEJ.

a. Summary of Revision. This Order has been completely revised and should be read in its entirety.

b. Punitive Effect. Violations of this Order by military personnel are punishable as violations of Article 92 of the Uniform Code of Military Justice (UCMJ) and can subject the violator to court-martial or other judicial or administrative action. Individuals not subject to the UCMJ who fail to comply are subject to adverse administrative action or criminal prosecution as authorized by references (a) through (c) and other applicable Federal and state law.

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Violations by other individuals may subject the violator to trial in the Federal courts for violation of references (a) through (c).

c. Definitions

(1) "Firearms," as expressed in this Order, include devices which propel projectiles by explosive, gaseous expansion.

(2) "Weapons," as expressed in this Order, include air rifles, air pistols, starter pistols, blank, and similar-type pistols. Other items (i.e., bow, K-bar/knives, or metallic knuckles) that may be designed specifically to cause grievous bodily harm are also included in this definition.

(3) "Handguns," as expressed in this Order, include pistols, revolvers, or other firearms with a short stock designed to be held and fired by the use of a single hand.

(4) "Ammunition," as expressed in this Order, is a device charged with explosives, propellants, pyrotechnics, initiating composition or chemical material for use in connection with defense or offense including demolitions, training, ceremonial, or non-operational purposes.

(5) "Small Arms Ammunition," as expressed in this Order, is ammunition, without projectiles containing explosives (other than tracers), that is .50 caliber or smaller or for shotguns.

(6) Locked case/compartment, as expressed in this Order, for transportation and enduring on-base storage in housing and other billeting is a fully encased container such as a gun safe, hard plastic case, etc., that is capable of completely enclosing the firearm and being locked with a key or combination lock.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent. The good order and discipline aboard military installations is a matter of paramount importance in safeguarding national security. Strict adherence to the standards established in this Order shall be maintained to ensure the security and safety of our community, which is essential to preserve good order and discipline aboard MCB CAMLEJ.

(2) Concept of Operations. Personnel residing on MCB CAMLEJ shall have the privilege of possessing their privately owned firearms, if they comply with all requirements of this Order and the references.

b. Tasks

(1) Commanding Officer (CO), Security and Emergency Services, Headquarters and Support Battalion shall:

(a) Implement the registration process for all privately-owned firearms stored on MCB CAMLEJ (registration applies only to personnel that reside on MCB CAMLEJ.

(b) Utilize the most current Marine Corps law enforcement database system to document all registered firearms on MCB CAMLEJ.

(c) Conduct a local records check of all personnel registering privately-owned firearms.

(d) Enforce provisions of this Order as they apply to possessing, registering, storing, transporting, and using privately-owned firearms.

(e) Ensure all newly assigned personnel are informed of the provisions of this Order.

(f) Ensure personnel that reside on MCB CAMLEJ and intend to store privately owned firearms in their quarters/residence, register those firearms with the Provost Marshal's Office (PMO) using the Weapons Registration Form in enclosure (1).

(2) Commanders of Subordinate and Tenant Commands:

(a) Ensure all newly assigned personnel are informed of this Order during initial orientation and as required to ensure continued awareness.

(b) Ensure all assigned Marines that reside on MCB CAMLEJ register all privately-owned firearms that they intend to store on Base, with PMO within 10 days of occupancy.

(c) Commanders with operational oversight of an armory are authorized in accordance with reference (e), to allow Marines to store privately-owned firearms within the unit armory and shall:

1. Develop written armory procedures that ensure daily armory sight counts and inventories that reflect accountability of privately-owned firearms.

2. Develop procedures that make it convenient for Marines to check weapons into and out of the armory.

3. Ensure that privately-owned firearms stored in the unit's armory are stored in locked containers, separate from military weapons and ammunition, and inventoried in accordance with reference (e).

4. Dispose of firearms in accordance with the guidance in reference (e), that have been determined to be abandoned in armory, including those whose owner(s) cannot be determined after reasonable inquiry, or whose owner(s) fail to remove their weapons after being provided notice and opportunity to claim.

(d) Ensure personal weapons and ammunition are permanently withdrawn from the armory only after written approval of the CO or authorized representatives.

(3) Individuals shall: All persons accessing MCB CAMELJ (to include Marines, government employees, contractors, dependents, visitors, and persons transiting the installation) shall comply with the regulations and requirements established in this Order.

c. Coordinating Instructions

(1) Possessing, carrying, displaying, firing, or discharging any firearm aboard the Installation, other than as authorized by the Commanding General (CG), MCIEAST-MCB CAMLEJ is prohibited.

(2) Owners of privately owned firearms must comply with all applicable Federal, state, and local laws for the purchase, registration, transportation, and storage of privately owned firearms and ammunition.

(3) Recreational shooting, hunting, and target practice on MCB CAMLEJ is permitted in approved areas only. Recreational shooting, hunting, and target practice by persons under 18 years of age is prohibited unless they are under the direct supervision or immediate control of a parent, guardian, officer, or staff noncommissioned officer (SNCO). Weapons Training Battalion shall obtain waivers for any underage shooting events outside of training military units.

(4) Family members desiring to purchase and/or maintain firearms on the Installation must have their sponsor register the firearms. Firearms shall be registered, per paragraph 4b(7) of this Order.

(5) Possession and Registration of Firearms and Weapons

(a) Per reference (b), it is a felony for anyone convicted of a "misdemeanor crime of domestic violence" to ship, transport, possess, or receive firearms or dispose of a firearm to any person

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they know or reasonably believe has such a conviction. Reference (c) defines a "misdemeanor crime of domestic violence."

(b) Per reference (g), privately owned firearms are prohibited in all Federal facilities; to include government leased spaces and government vehicles.

(c) Military personnel (E-1 through E-5) residing in barracks:

1. Shall register their privately owned firearms with the PMO Administrative Section and then deliver the firearms to their organizational commander, who shall issue receipts, and provide storage per reference (e).

2. Shall deliver weapons, other than firearms, as defined in paragraph 3c(2), to the organizational commander for storage in the same manner as firearms.

(d) SNCOs and officers residing in Bachelor Enlisted Quarters (BEQ) or Bachelor Officer Quarters (BOQ):

1. Shall register all privately owned firearms retained in their on-base quarters with the PMO Administrative Section.

2. After registering firearms, SNCOs and officers shall read, and sign enclosure (2) acknowledging authorization to maintain firearms in BEQs and BOQs, and shall receive a copy of enclosure (2), and enclosure (3). SNCOs and officers must also complete enclosure (1) at the time of registration.

3. SNCOs and officers who previously registered their firearms and reside in BEQs and BOQs must sign enclosure (2) acknowledging they understand and shall comply with the updated firearms regulations. A signed copy of enclosure (2) must be provided to PMO.

4. All privately owned firearms stored for enduring on-base storage in housing and other billeting shall be in a fully encased container (e.g. gun safe, hard plastic case, gun cabinet, etc.) that is capable of completely enclosing the firearms and being locked with a key or combination lock. All firearms shall also be fitted with a trigger or cable lock while stored.

(e) All personnel residing in family housing:

1. Shall register all privately owned firearms retained in their on-base quarters with the PMO Administrative Section.

2. After registering firearms, personnel shall read, and sign enclosure (2) acknowledging authorization they understand and shall comply with the updated firearms regulations for maintaining firearms in family housing, and will receive a copy of enclosure (2), and enclosure (3). Personnel must also complete enclosure (1) at the time of registration.

3. Personnel who previously registered their firearms and reside in family housing must sign enclosure (2) acknowledging they understand and will comply with the updated firearms regulations. A signed copy of enclosure (2) must be provided to PMO.

4. All privately owned firearms stored for enduring on-base storage in housing and other billeting will be in a fully encased container (e.g. gun safe, hard plastic case, gun cabinet, etc.) that is capable of completely enclosing the firearms and being locked with a key or combination lock. All firearms shall also be fitted with a trigger or cable lock while stored.

(f) Per reference (g), any military issued firearm, authorized by the CG, MCIEAST-MCB CAMLEJ for retention in government quarters for enduring on-base storage in housing and other billeting must be stored in a fully encased container (e.g. gun safe, hard plastic case, gun cabinet, etc.) that is capable of completely enclosing the firearms and being locked with a key or combination lock. All firearms shall also be fitted with a trigger or cable lock while stored.

(g) Marine Corps Community Services owned shotguns are not required to be registered with the PMO Administrative Section, however all other provisions of this Order apply.

(h) All personnel who register their firearms shall notify the PMO Administrative Section when they sell or dispose of their firearms, or transfer to a new duty station.

(i) Military Police shall be notified when unregistered firearms are identified aboard MCB CAMLEJ. When not an instrument to other criminal activity, the firearm may be released to the owner's Commanding Officer (CO), held until properly registered, or seized as evidence until adjucative action is complete.

(6) Possession of Ammunition

(a) Personal ammunition of permanent or temporary personnel residing in the barracks, but not in family quarters, shall be delivered to organizational commanders, who will issue receipts, and provide storage per reference (e).

(b) Ammunition for privately owned firearms may be retained in family quarters, SNCO BEQs and Officer BOQs. Ammunition must be stored separately from firearms and in a container capable of being locked with a key or combination lock.

(7) Possession of Explosives, Fireworks, or Pyrotechnics. The possession or use of explosives, fireworks, or pyrotechnics is prohibited, except as required in the performance of official duties.

(8) Sales of Firearms at the Marine Corps Exchange (MCX). The MCX is authorized to sell certain types of firearms and weapons. Firearm sales shall be subject to the following controls:

(a) Handguns (pistols/revolvers) shall be sold to military members if they are 21 years of age and older.

(b) Handguns (pistols/revolvers) shall be sold to other bona-fide MCX patrons with the presentation of a permit issued by an appropriate county residence sheriff's department, as required by reference (c).

(c) Paragraph b(1) of reference (b) prohibits the sale or delivery of any handgun or handgun ammunition to any individual under the age 21, or any firearms, ammunition, or gunpowder to anyone under the age 18.

(d) The sale of all firearms shall be recorded, per the instructions contained in references (b) and (c).

(9) Personal Sales. When purchasing privately owned weapons from personnel who reside on the Installation and the weapon is to be retained aboard the Installation the purchaser must present a bill of sale to PMO prior to registration of the weapon(s).

(10) Concealed Handguns and Weapons

(a) It is prohibited for any personnel, regardless of state license or permit, to carry a concealed privately-owned firearm or any weapon that could cause bodily harm aboard MCB CAMLEJ.

(b) Qualified, active Marine Corps Law Enforcement professionals, who possess a valid Law Enforcement Officer Safety Act 18 U.S.C. §926B credentials are authorized to carry concealed privately-owned firearms aboard MCB CAMLEJ, per reference (f).

(11) Transporting Privately Owned Firearms aboard MCB CAMLEJ

(a) Transporting privately owned firearms is authorized in privately owned vehicles to and from an authorized storage area on-base to an off-base location consistent with Federal, state, or local

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laws. In the event an individual is stopped by Law Enforcement while transporting privately owned firemarms, a declanation must be made to the officer per reference (c).

(b) Firearms may also be transported to and from on-base areas, where firearms use is authorized, such as hunting areas or recreational shooting ranges. Current policies that permit hunting on-base are adequate and those weapons are not required to be registered, unless they are stored on-base in a unit armory, housing, or billeting.

(c) Per reference (f), when transporting privately owned firearms aboard the Installation great care must be exercised and precautions taken to ensure the firearms are not loaded and prepared for employment by any occupant of the motor vehicle. It is a violation of this Order to transport a firearm in a vehicle unless the firearm is secured in a locked case/compartment.

(d) No loaded privately owned firearm shall be transported aboard the Installation with the exemption of qualified active Marine Corps Law Enforcement professionals, who possess a valid Law Enforcement Officer Saftey Act 18 U.S.C. §926B credentials.

(e) Privately owned firearms shall not be stored in an enduring or long term manner greater than 24 hours within privately owned vehicles aboard MCB CAMLEJ.

(f) Intermittent stops while transporting privately owned firearms are permitted.

(12) North Carolina Law

(a) The possession, use, sale, and/or other disposal and registration of certain firearms by personnel residing off the Installation are subject to the provisions of North Carolina State Laws.

(b) The provisions set forth by §14-415.10 of reference (c) (Open Carry/Concealed Handguns) ***will not*** apply to MCB CAMLEJ.

5. Administration and Logistics. This Order has been coordinated with and concurred by the CGs of MCIEAST-MCB CAMLEJ; II Marine Expeditionary Force; Commander, U.S. Marine Corps Forces, Special Operations Command; and the COs of the Naval Medical Center; U.S. Coast Guard Joint Maritime Training Center; Marine Corps Combat Service Support Schools; School of Infantry-East; and Marine Corps Engineer School.

6. Command and Signal

a. Command. This Order is applicable to MCB CAMLEJ and its subordinate and tenant commands.

b. Signal. This Order is effective the date signed.

M. JERNIGAN
Chief of Staff

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ENCLOSURE 2

MCIEAST-MCB CAMLEJO 5000.1A

"By Direction" Signature Authority

(14 May 2019)

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UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE
PSC BOX 20005
CAMP LEJEUNE NC 28542-0005

MCIEAST-MCB CAMLEJO 5000.1A
ADJ
MAY 14 2019

MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE CAMP LEJEUNE ORDER 5000.1A

From: Commanding General
To: Distribution List

Subj: "BY DIRECTION" SIGNATURE AUTHORITY

Ref: (a) U.S. Navy Reg. 1990
(b) SECNAV M-5216.5 Ch 1

Encl: (1) List of Billets Authorized "By direction" Signature Authority

1. Situation. To promulgate instructions on authority for "By direction" signatures for the Commanding General (CG), Marine Corps Installations East-Marine Corps Base Camp Lejeune (MCIEAST-MCB CAMLEJ) per references (a) and (b).

2. Cancellation. MCIEAST-MCB CAMLEJO 5001.1 Ch 4.

3. Mission.

a. To publish a current list of billets authorized to sign correspondence "By direction" of the CG.

b. Summary of Revision. The following revisions were made to this Order:

(1) Added Coordinating Instructions paragraph.

(2) Removed Legal Administrative Officer billet within the Staff Judge Advocate (SJA) office.

(3) Billet description updated from the Deputy Equal Employment Opportunity (EEO) Officer to the Deputy Director EEO.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent. Per the references, the billet holders listed in the enclosure are authorized to sign correspondence "By direction" of the CG with respect to routine matters pertaining to their primary tasks and duties, unless such

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authority is restricted or withdrawn by the individual's supervisor. This authorization will remain in effect unless revoked in writing.

(2) Concept of Operations. Routine correspondence may be signed "By direction" of the CG so long as it does not pertain to the following:

(a) Setting policy;

(b) Changes to the Command's missions that are addressed to higher authority;

(c) Congressional correspondence (only exception may be signed by the Chief of Staff);

(d) Disapproval or non-concurrence of a subordinate request or commander's recommendation;

(e) Discharge of individuals;

(f) Correspondence that, by law or designed by higher headquarters, must be signed by the CG;

(g) Routine correspondence in response to the offices of flag and general officers may be signed "By direction" only if the incoming correspondence was signed "By direction" and the reply thereto does not disapprove or deny any request contained in the correspondence from the flag or general officer;

(h) Persons temporarily filling any of the billets listed in enclosure (1) are authorized "By direction" signature authority, but only for the temporary period for which they are assigned to the listed billet;

(i) Matters pertaining to officers or potential officers;

(j) Final legal documents awarding punishment;

(k) Controversial subjects or matters that are otherwise potentially embarrassing or which might bring discredit upon the United States Government, Department of Defense, and/or United States Marine Corps.

b. Coordinating Instructions. Director, Installation Personnel Administration Center (IPAC) is authorized to sign documents affecting pay. Further, authorization to delegate in writing, the authority to sign documents affecting pay to commissioned officers and civilian employees GS-7 and above.

5. Administration and Logistics. Copies of all correspondence signed "By direction" will be forwarded to the Adjutant on a weekly basis for inclusion in the CG's "By direction" command files.

6. Command and Signal

a. Command. This Order is applicable to Headquarters Marine Corps Installations East-Marine Corps Base, Camp Lejeune.

b. Signal. This Order is effective the date signed.

BENJAMIN T. WATSON

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MAY 1 4 2019

LIST OF BILLETS AUTHORIZED "BY DIRECTION" SIGNATURE AUTHORITY

Deputy Commander (Authorized to sign by "Title" vice "By direction")

Chief of Staff (Authorized to sign by "Title" vice "By direction")

Deputy Director EEO

Security Manager

Assistant Chief of Staff (AC/S), G-1
Deputy AC/S, G-1
Adjutant
Adjutant Chief
Manpower Officer/Military Personnel Officer
Manpower Chief
Director, Civilian Human Resources Office-East
Director, Civilian Human Resources Office-Southeast
*Director, IPAC
**Deputy Director, IPAC
**Director, Camp Lejeune Identification Card Center
Freedom of Information and Privacy Act Coordinator

AC/S, G-3/5
Deputy AC/S, G-3/5

AC/S, G-4
Deputy AC/S, G-4
Operations Officer
Fleet Manager
Supply Officer

AC/S, G-6
Deputy AC/S, G-6

AC/S, G-7
Deputy AC/S, G-7

AC/S, Marine Corps Community Services (MCCS)
Deputy AC/S, MCCS
Management and Program Analyst, MCCS

AC/S, G-F
Deputy AC/S, G-F
Director, Geospatial Information and Services
Regional Environmental Coordinator
Regional Facilities Coordinator
Director, Environmental Management Division
**Director, Family Housing Division
**Deputy, Family Housing Division

**Director, Bachelor Housing Division
Public Works Officer
Operations Officer

AC/S, G-8
Deputy AC/S, G-8

Command Inspector General (CIG)
Deputy CIG

Command Chaplain
Deputy Command Chaplain

Regional Contracting Officer
Deputy Contracting Officer

Director of Safety

SJA
Deputy SJA

Staff Secretary

Officer-in-Charge, Legal Services Support Section-East
***Chief Review Officer
***Assistant Chief Review Officer

*Granted authorization to delegate in writing, the authority to sign documents affecting pay and allowances to commissioned officers and civilian employees GS-7 and above.

**Denotes authorized to sign only installation vice regional correspondence

***Limited to approvals of voluntary appellate leave requests and initial requests for post-trial extensions to submit matter under R.C.M. 1105 and 1106

ENCLOSURE 3

MCIEAST-MCB CAMLEJO 5400.1A

Organizations, Functions, And Staff Regulations

(12 March 2018)

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UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE
PSC BOX 20005
CAMP LEJEUNE NC 28542-0005

MCIEAST-MCB CAMLEJO 5400.1A
G-/1 ADJ
MAR 12 2018

MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE CAMP LEJEUNE ORDER 5400.1A

From: Commanding General
To: Distribution List

Subj: ORGANIZATIONS, FUNCTIONS, AND STAFF REGULATIONS

Ref: (a) U.S. Navy Regs. 1990 Ch 2
(b) MARCORMAN, 1980 Ch 3
(c) Federal Employee Compensation Act
(d) MCO 3104.1B
(e) MCIEAST-MCB CAMLEJO 3104.1
(f) DoD 8570.01-M "Information Assurance Workforce Improvement Program," December 19, 2005
(g) MCO 7300.21B
(h) MCO 7540.2E
(i) MARADMIN 016/05 of 11 Jan 05
(j) MCO P5800.16A Ch 7
(k) 10 U.S.C., Chapter 47 UCMJ
(l) R.C.M. 1112 MCM, 2016
(m) MCO 1900.16
(n) NAVPERS 15560D, MILPERSMAN
(o) JAGINST 5800.7F
(p) MCO 1610.7F Ch 1
(q) BUPERSINST 1610.10C
(r) MCIEAST-MCB CAMLEJO 1610.1
(s) MCIEAST-MCB CAMLEJO 5000.1 Ch 4
(t) SECNAV M-5216.5
(u) SECNAV M-5210.2
(v) MCO 5216.9Y
(w) MCIEAST-MCB CAMLEJO 5730.1
(x) MCIEAST-MCB CAMLEJO 5210.5A
(y) NAVMC Dir 5210.11E
(z) MCIEAST-MCB CAMLEJO 5215.1B
(aa) MCIEAST-CAMLEJO 5605.1
(ab) MCO 5600.31A
(ac) MCIEAST-MCB CAMLEJO 5214.1A
(ad) MCIEAST-MCB CAMLEJO 5213.1
(ae) MCIEAST-MCB CAMLEJO 5720.1
(af) MCIEAST-MCB CAMLEJO 5211.6A
(ag) MCIEAST-MCB CAMLEJO 5750.1B
(ah) ALMAR 035/07 of 25 Jul 07
(ai) MCIEASTO 5211.5
(aj) MCO 1050.3J
(ak) MCIEAST-MCB CAMLEJO 1601.1D
(al) MCIEAST-MCB CAMLEJO 1650.6A

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(am) MCIEAST-MCB CAMLEJO 3040.1D
(an) MCIEAST-MCB CAMLEJO 1640.10
(ao) MCIEAST-MCB CAMLEJO 1752.1
(ap) MCIEAST-MCB CAMLEJO 1754.1A
(aq) MCIEAST-MCB CAMLEJO 5500.5A
(ar) MCIEAST-MCB CAMLEJO 5560.2
(as) MCIEAST-MCB CAMLEJO 7010.1A
(at) MCIEAST-MCB CAMLEJO 5530.2A

Encl: (1) Organizations, Functions, and Staff Regulations

1. Situation. This Order promulgates the official organization and functions of Marine Corps Installations East-Marine Corps Base, Camp Lejeune (MCIEAST-MCB CAMLEJ), and publishes command and staff actions within this Headquarters.

2. Cancellation. MCIEAST-MCB CAMLEJO 5400.1.

3. Mission

a. To promulgate organization and functions of MCIEAST-MCB CAMLEJ, and provide command guidance and staff procedures, in accordance with references (a) through (am).

b. Summary of Revision. This Order has been completely revised due to changes in staff organization and functions. It should be reviewed in its entirety.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent. This Order establishes regulations, procedures, and processes and defines functions and responsibilities to enhance staff action. Additionally, it articulates the mission and core competencies of MCIEAST-MCB CAMLEJ staff sections and identifies the purpose, structure and responsibilities of MCIEAST-MCB CAMLEJ.

(2) Concept of Operations. All general staff, special staff, subordinate commanders, and MCIEAST personnel shall ensure compliance with the contents of this Order.

b. Tasks. Refer to enclosure (1).

5. Administration and Logistics. Comments and recommendations concerning the contents of this Order are invited. Forward such recommendations to the Assistant Chief of Staff, (AC/S,) G-1 (Attn: Adjutant) via the chain of command or cognizant staff section.

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6. Command and Signal

a. Command. This Order is applicable to all MCIEAST-MCB CAMLEJ General and Staff Departments, MCIEAST subordinate commands, and personnel assigned.

b. Signal. This Order is effective the date signed.

M. L. SCALISE
Deputy Commander

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Chapter 1

Command, Staff, and Staff Actions

1. Mission. MCIEAST commands consist all U.S. Marine Corps installations within the MCIEAST region. MCIEAST integrates regional planning to implement policies and develop strategies to support combat readiness, expeditionary training and provides services to forward deployed operating forces and designated supported organizations.

2. General. Command and staff relationships are established and function within a defined organizational structure. This organizational structure includes the Commanding General (CG), a Deputy Commander (Dep Comdr), subordinate unit commanders, and general and special staffs. This Order outlines the duties and responsibilities of these individuals and staffs.

3. Command. The CG is responsible to the Commander, Marine Corps Installations Command (COMMCICOM).

4. Control

a. MCIEAST-MCB CAMLEJ is under the administrative and operational control of the COMMCICOM.

b. The CG will have a single staff with which to conduct command and staff action throughout MCIEAST and for MCB CAMLEJ.

c. The Commandant of the Marine Corps (CMC) exercises management control of all activities and facilities for which expense is borne by the Marine Corps.

d. Installations and commands under the control of the CG MCIEAST-MCB CAMLEJ are Marine Corps Air Station (MCAS), Cherry Point (CHERPT), North Carolina (NC); MCAS New River (NR), NC; MCAS Beaufort, SC (BFT); Marine Corps Base (MCB), Camp Lejeune, NC (CAMLEJ); Marine Corps Logisitics Base (MCLB), Albany, Georgia (ALBGA); Marine Corps Support Facility (MCSF) Blount Island, Jacksonville, Florida (FL); Headquarters and Support Battalion (H&S BN), MCIEAST-MCB CAMLEJ, and Weapons Training Battalion (WTBn)-MCB CAMLEJ.

5. Temporary Succession to Command

a. Chapter 10, section 4, paragraph 1072 of reference (a) and paragraphs 1007.2 and 1007.3 of reference (b) govern succession to command. During the temporary absence, leave, or temporary additional duty (TAD) of the CG, the Dep Comdr will assume command and be designated in writing as the Commander (vice CG) "Acting". In the event the CG and Dep Comdr are both absent, another colonel will be assigned in writing as the "Acting" Commander.

b. Preparation of correspondence and documents for signature during temporary succession to command shall be in accordance with chapters 23 through 25 of this Order.

6. Staff

a. Organization of the staff is in accordance with the current Table of Organization (T/O) (M02213 and M31001 Series).

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b. The mission of the staff is providing information, advising, making recommendations, preparing plans and orders, informing other staff and subordinate commands of the CG's plans and policies, and supervising execution.

c. The establishment of policy rests with the CG. The staff may recommend new policies, as well as modifications or revisions to existing policies. The CG, Dep Comdr, or Chief of Staff (COS) will sign all directives. The staff is authorized to carry out the routine business of MCIEAST-MCB CAMLEJ except in matters which will bear directly on readiness, efficiency, and policy.

7. Deputy Commander (Dep Comdr). The Dep Comdr is an officer assigned by law, regulations, or orders of competent authority to succeed command. The Dep Comdr shall always act for the commander in the absence of the commander. When the commander is present, a deputy shall exercise command and control (C2) only over activities and matters specified or directed by the commander, in accordance with reference (b).

8. Chief of Staff (COS)

a. The COS directs, coordinates, and supervises the activities of the general and special staffs in accordance with Article 0711 of reference (a).

b. The COS is the CG's and Dep Comdr's principal staff officer and is responsible to the CG and Dep Comdr for activities of the general and special staffs. As such, the COS is the principal staff assistant to the CG and Dep Comdr, and is responsible for directing, coordinating, supervising, and training the staff as a team. The flow of guidance, direction, and feedback normally runs from and to the CG or Dep Comdr through the COS. General and special staff officers have direct access, as required, to the CG or Dep Comdr; however, they keep the COS advised of information provided and guidance received.

c. The COS is assisted by the Staff Secretary (SSEC), whose duties are administrative in nature.

9. Temporary Appointment as Acting Deputy Commander. When the officer regularly assigned as the Dep Comdr is temporarily absent, on leave, or on TAD, a designated officer of the general or special staff will normally succeed as Acting Dep Comdr. The principles set forth in Article 1074, of reference (a) will guide the officer serving temporarily as Dep Comdr.

10. Executive Staff. The executive staff is detailed in chapter two of the enclosure.

11. General Staff

a. The general staff consists of the COS and eight departments, each headed by an Assistant Chief of Staff (AC/S). The departments are designated: G-1, G-3/5, G-4, G-6, G-7, G-8, G-F, and Marine Corps Community Services (MCCS).

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b. General staff officers are the CG's staff assistants in designated broad fields of expertise and interest, as detailed in the chapters that follow in the enclosure. General staff officers are designated as AC/S for their particular function.

c. General staff officers are directly responsible to the COS; however, the CG and Dep Comdr will frequently consult with them directly. In such cases, they report to the COS any information they provide directly to or receive from the CG or Dep Comdr.

12. Special Staff

a. The Special staff consists of twelve special staff officers. These staff officers include the Adjutant (Adj), Command Inspector General (CIG), Command Chaplain, Director Communication and Operations Strategy (COMMSTRAT), SJA, Regional Contracting Officer (RCO), Deputy for Small Business (SBS), Equal Opportunity Advisor (EOA), Director of Safety (DOS), Security Manager, Deputy Equal Employment Opportunity officer (EEO), and the Officer in Charge (OIC), Legal Service Support Section-East (LSSS-E). The Adj falls under the cognizance of the AC/S G-1 and the Security Manager and Deputy EEO fall under the cognizance of the COS.

b. The special staff consists of staff officers whose areas of responsibility focus on particular specialties. They act as advisors, planners, and coordinators within their respective specialties.

c. Special staff officers assist the COS and general staff in preparing studies, estimates, plans, orders, instructions, and reports.

d. Special staff officers have direct access to the CG, Dep Comdr, and COS when appropriate and as the CG concurs.

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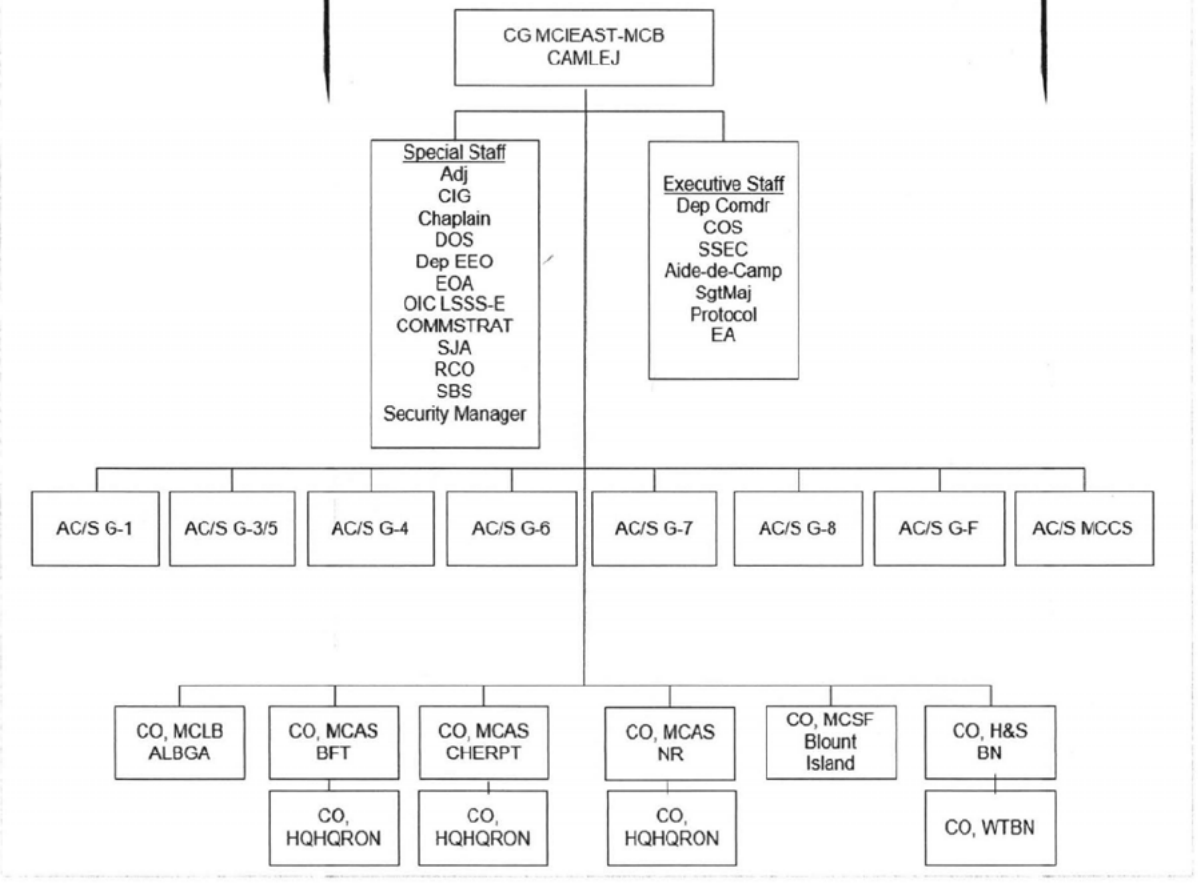

Figure 1-1.--MCIEAST-MCB CAMLEJ Organization Chart

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ENCLOSURE 4

MCI-MCB CAMLEJO 5500.1

Possession, Registration, Use, And Sale Of Privately Owned Firearms, Weapons, Ammunition, Explosives, Fireworks And Pyrotechnics

(8 May 2015)

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UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE
PSC BOX 20005
CAMP LEJEUNE NC 28542-0005

MCIEAST-MCB CAMLEJO 5500.1 CH 1
SES/PMO
0 8 MAY 2015

MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE CAMP LEJEUNE ORDER 5500.1 CH 1

From: Commanding General
To: Distribution List

Subj: POSSESSION, REGISTRATION, USE, AND SALE OF PRIVATELY OWNED FIREARMS, WEAPONS, AMMUNITION, EXPLOSIVES, FIREWORKS, AND PYROTECHNICS

Ref: (a) 18 U.S.C. §13, Federal Assimilative Crimes Act
(b) DoDI 6055.06, "Fire & Emergency Services Program Manual," July 14, 2005
(c) 18 U.S.C. §922
(d) General Statutes of North Carolina (NOTAL)
(e) MCO 5530.14A
(f) MCO 5500.6H
(g) MARADMIN 186/03 of 21 Apr 03
(h) MARADMIN 176/14 of 3 Apr 14

Encl: (1) Sample Request Authorization to Purchase a Handgun
(2) Firearms Regulations Acknowledgment Letter
(3) North Carolina General Statute §14-315.1
(4) MCIEAST-MCB CAMLEJ Weapons Registration Form
(5) Sample Request Authorization for Concealed Handgun Permit

1. Situation. The unlawful sale, use and possession of privately owned firearms, weapons, ammunition, explosives, fireworks and pyrotechnics threaten the good order and discipline vital to the mission of Marine Corps Installations East-Marine Corps Base, Camp Lejeune (MCIEAST-MCB CAMLEJ). This necessitates implementation of regulations to protect the resources of MCIEAST-MCB CAMLEJ; references (a) through (h) apply.

2. Cancellation. BO 5500.1G.

3. Mission. This Order outlines the regulations concerning the possession, registration, transportation, storage, use and sale of privately owned firearms, weapons, ammunition, explosives, fireworks, and pyrotechnics by all personnel aboard MCIEAST-MCB CAMLEJ.

a. Punitive Effect. Violations of this Order by military personnel are punishable as violations of Article 92 of the Uniform Code of Military Justice (UCMJ) and can subject the violator to court-martial or other judicial or administrative action. Individuals not subject to the UCMJ who fail to comply are subject to adverse

DISTRIBUTION STATEMENT A: Approved for public release; distribution is unlimited.

administrative action or criminal prosecution as authorized by references (a), (c), and (d) and other applicable Federal and state law. Violations by other individuals may subject the violator to trial in the Federal courts for violation of references (a), (c), and (d).

b. Definitions

(1) "Firearms," as expressed in this Order, include devices which propel projectiles by explosive, gaseous expansion.

(2) "Weapons," as expressed in this Order, include air rifles, air pistols, starter pistols, blank, and similar-type pistols. Other items (i.e., bow, K-bar/knives, or metallic knuckles) that may be designed specifically to cause grievous bodily harm are also included in this definition.

(3) "Handguns," as expressed in this Order, include pistols, revolvers, or other firearms with a short stock designed to be held and fired by the use of a single hand.

(4) "Ammunition," as expressed in this Order, is a device charged with explosives, propellants, pyrotechnics, initiating composition or chemical material for use in connection with defense or offense including demolitions, training, ceremonial, or non-operational purposes.

(5) "Small Arms Ammunition," as expressed in this Order, is ammunition, without projectiles containing explosives (other than tracers), that is .50 caliber or smaller or for shotguns.

(6) Locked case/compartment, as expressed in this Order, for enduring on-base storage in housing and other billeting is a fully encased container such as a gun safe, hard plastic case, etc., that is capable of completely enclosing the firearm and being locked with a key or combination lock.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent. The good order and discipline aboard military installations is a matter of paramount importance in safeguarding national security. Strict adherence to the standards established in this Order shall be maintained to ensure the security and safety of our community, which is essential to preserve good order and discipline aboard MCIEAST-MCB CAMLEJ.

(2) Concept of Operations. Personnel residing on MCIEAST-MCB CAMLEJ shall have the privilege of possessing their privately owned firearms, if they comply with all requirements of this Order and the references.

b. Coordinating Instructions

(1) Possessing, carrying, displaying, firing, or discharging any firearm aboard the Installation, other than as authorized by the Commanding General (CG), MCIEAST-MCB CAMLEJ is prohibited.

(2) Owners of privately owned firearms must comply with all applicable Federal, state, and local laws for the purchase, registration, transportation, and storage of privately owned firearms and ammunition.

(3) Recreational shooting, hunting, and target practice on MCIEAST-MCB CAMLEJ is permitted in approved areas only. Recreational shooting, hunting, and target practice by persons under 18 years of age is prohibited unless they are under the direct supervision or immediate control of a parent, guardian, officer, or staff noncommissioned officer. Weapons Training Battalion shall obtain waivers for any underage shooting events outside of training military units.

(4) Purchase of Handguns. All military personnel desiring to purchase a handgun shall first obtain an authorization letter (enclosure (1)) from their Commanding Officer (CO). The purpose of the CO's signed authorization is to enable military members who may not otherwise satisfy the requirements for the purchase of a handgun in the State of North Carolina, per §14-403 and 404 of reference (d) to purchase a handgun. This will also allow the military member to comply with the laws and regulations pertaining to handgun ownership in North Carolina, per reference (d) and not to impede or restrict their right to a lawful handgun purchase or create additional requirements or burdens. The authorization endorsement shall include the organizational heading and comply with the following guidelines:

(a) The letter must be dated.

(b) The letter shall be issued by the individual's Battalion/Squadron CO and addressed to the Onslow County Sheriff's Office (OCSO); 717 Court Street; Jacksonville, NC 28540 or the Sheriff of the county in which the military member resides.

(c) The letter shall include:

1. Complete identification of person requesting authorization to purchase firearms.

2. A statement that the individual's records have been reviewed and that they are of good character.

(d) The number of permits requested (maximum of five per request).

(e) The complete address where the firearm will be retained.

(f) The purchaser has been advised that they must register the firearm with the Provost Marshal Office (PMO) Administrative Section at MCIEAST-MCB CAMLEJ if they resides on MCIEAST-MCB CAMLEJ, per references (e) through (g).

(g) The purchaser has been advised that they must comply with the rules and regulations concerning the ownership, transportation, and use of firearms aboard MCIEAST-MCB CAMLEJ and the State of North Carolina.

(h) The letter is null and void if not used within 10 working days from date of issue.

(i) Battalion or Squadron COs or acting COs must sign the letter. Letters signed "By direction" will not be accepted.

(5) Family members desiring to purchase and/or maintain firearms on the Installation must have their sponsor register the firearms. Firearms shall be registered, per paragraph 4b(7) of this Order.

(6) All purchasers shall take the original letter and local records check to the sherrifs office in the county in which they reside, to obtain the appropriate State Permit to purchase firearms. The military member shall retain a copy of the letter and local records check.

(7) Possession and Registration of Firearms and Weapons

(a) Per reference (f) it is a felony for anyone convicted of a "misdemeanor crime of domestic violence" to ship, transport, possess, or receive firearms or dispose of a firearm to any person they know or reasonably believe has such a conviction. Reference (d) defines a "misdemeanor crime of domestic violence."

(b) Per reference (g), privately owned firearms are prohibited in all Federal facilities; to include government leased spaces and government vehicles

(c) Military personnel (E-1 through E-5) residing in barracks:

1. Shall register their privately owned firearms with the PMO Administrative Section and then deliver the firearms to their organizational commander, who shall issue receipts, and provide a place of safekeeping for the firearms and ammunition.

2. Weapons, other than firearms, as defined in paragraph 3c(2), shall not be registered, but shall be delivered to the organizational commander for safekeeping in the same manner as firearms.

(d) Staff Noncommissioned Officers (SNCOs) and officers residing in Bachelor Enlisted Quarters (BEQ) or Bachelor Officer Quarters (BOQ):

1. Shall register all privately owned firearms retained in their on-base quarters with the PMO Administrative Section.

2. After registering firearms, SNCOs and Officers shall read, and sign enclosure (2) acknowledging authorization to maintain firearms in BEQs and BOQs, and shall receive a copy of enclosure (2), and enclosure (3). SNCOs and officers must also complete enclosure (4) at the time of registration.

3. SNCOs and officers who previously registered their firearms and reside in BEQs & BOQs must sign enclosure (2) acknowledging they understand and shall comply with the updated firearms regulations. A signed copy of enclosure (2) must be provided to PMO.

4. All, privately owned firearms stored for enduring on-base storage in housing and other billeting shall be in a fully encased container (e.g. gun safe, hard plastic case, gun cabinet, etc.) that is capable of completely enclosing the firearms and being locked with a key or combination lock. All firearms shall also be fitted with a trigger lock while stored.

(e) All personnel residing in family housing:

1. Shall register all privately owned firearms retained in their on-base quarters with the PMO Administrative Section.

2. After registering firearms, personnel shall read, and sign enclosure (2) acknowledging authorization they understand and shall comply with the updated firearms regulations for maintaining firearms in family housing, and will receive a copy of enclosure (2), and enclosure (3). Personnel must also complete enclosure (4) at the time of registration.

3. Personnel who previously registered their firearms and reside in family housing must sign enclosure (2) acknowledging they understand and will comply with the updated firearms regulations. A signed copy of enclosure (2) must be provided to PMO.

4. All, privately owned firearms stored for enduring on-base storage in housing and other billeting will be in a fully encased container (e.g., gun safe, hard plastic case, gun cabinet, etc.) that is capable of completely enclosing the firearms and being locked with a key or combination lock. All firearms shall also be fitted with a trigger lock while stored.

(f) Per reference (h), any military issued firearm, authorized by the CG, MCIEAST-MCB CAMLEJ for retention in government quarters for enduring on-base storage in housing and other billeting must be stored in a fully encased container (e.g., gun safe, hard plastic case, gun cabinet, etc.) that is capable of completely enclosing the firearms and being locked with a key or combination lock. All firearms shall also be fitted with a trigger lock while stored.

(g) Marine Corps Community Services owned shotguns are not required to be registered with the PMO Administrative Section, however all other provisions of this Order apply.

(h) All personnel who register their firearms shall notify the PMO Administrative Section when they sell or dispose of their firearms, or transfer to a new duty station.

(i) Military Police shall be notified when unregistered firearms are identified aboard MCIEAST-MCB CAMLEJ. When not an instrument to other criminal activity, the firearm may be released to the owner's commanding officer, held until properly registered, or seized as evidence until adjudicative action is complete.

(8) Possession of Ammunition

(a) Personal ammunition of permanent or temporary personnel residing in the barracks, but not in family quarters, shall be delivered to organizational commanders, who will issue receipts, and provide a place of safekeeping.

(b) Ammunition for privately owned firearms may be retained in family quarters, SNCO BEQs and Officer BOQs. Ammunition must be stored separately from firearms and in a container capable of being locked with a key or combination lock.

(9) Possession of Explosives, Fireworks, or Pyrotechnics. The possession or use of explosives, fireworks, or pyrotechnics is prohibited, except as required in the performance of official duties.

(10) Sales of Firearms at the Marine Corps Exchange (MCX). Paragraph E3.3.5 of reference (b) authorizes the MCX to sell certain types of firearms and weapons. Firearm sales shall be subject to the following controls:

(a) Handguns (pistols/revolvers) shall be sold to military members if they are 21 years of age and older and have the written authorization of their CO. Enclosure (1) shall be used for this purpose.

(b) Handguns (pistols/revolvers) shall be sold to other bona-fide MCX patrons with the presentation of a permit issued by an appropriate county residence sheriff's department, as required by reference (c).

(c) Paragraph b(1) of reference (c) prohibits the sale or delivery of any handgun or handgun ammunition to any individual under the age 21, or any firearms, ammunition, or gunpowder to anyone under the age 18.

(d) The sale of all firearms shall be recorded, per the instructions contained in references (b) and (c).

(11) Personal Sales

(a) Individuals may advertise to buy or sell personal firearms or weapons in Camp Lejeune's newspaper, *THE GLOBE*, but are reminded of the firearm registration requirements. Reference (c) and North Carolina State Laws apply to the resale of firearms and weapons whether retained on or off the Installation.

(b) When purchasing privately owned weapons from personnel who reside on the Installation and the weapon is to be retained aboard the Installation the purchaser must present a bill of sale to PMO prior to registration of the weapon(s).

(12) Concealed Handguns and Weapons

(a) It is prohibited for any personnel not subject to reference (h), to carry a concealed handgun or any weapon that could cause bodily harm, unless otherwise authorized by the CG, MCIEAST-MCB CAMLEJ.

(b) Military personnel applying for North Carolina concealed handgun permits will submit their application through the OCSO or county in which they reside. Applicants must complete the North Carolina Handgun Safety Course prior to submitting enclosure (5) to the PMO Administrative Section for a local records check prior to submitting the application to the county in which they reside. This permit does not authorize personnel to conceal carry on the Installation.

(13) Transporting Privately Owned Firearms aboard MCIEAST-MCB CAMLEJ

(a) Transporting privately owned firearms is authorized in privately owned vehicles to and from an authorized storage area on-base to an off-base location consistent with Federal, state, or local laws. Firearms may also be transported to and from on-base areas where firearms use is authorized, such as hunting areas or recreational shooting ranges. Current policies that permit hunting on-base are adequate and those weapons are not required to be registered unless they are stored on-base in a unit armory, housing, or billeting. Per reference (g), when transporting privately owned firearms aboard the Installation great care must be exercised and precautions taken to ensure the firearms are not loaded and prepared for employment by any occupant of the motor vehicle. It is a violation of this Order to transport a firearm in a vehicle unless the firearm is secured in a locked case/compartment.

(b) No loaded privately owned firearm shall be transported aboard the Installation.

(c) Privately owned firearms shall not be stored in an enduring or long term manner within privately owned vehicles aboard MCIEAST-MCB CAMLEJ.

(d) Intermittent stops while transporting privately owned firearms are permitted.

(14) North Carolina Law

(a) The possession, use, sale, and/or other disposal and registration of certain firearms by personnel residing off the Installation are subject to the provisions of North Carolina State Laws.

(b) The provisions set forth by §14-415.10 of reference (d) (Concealed Handguns) ***will not*** apply to MCIEAST-MCB CAMLEJ.

(15) COs shall:

(a) Ensure all newly assigned personnel are informed of the provisions of this Order, during initial orientation, and as often thereafter as deemed necessary.

(b) Per reference (e) provide storage within unit armories for privately owned personal weapons registered with PMO.

(c) Ensure that personal weapons stored in the unit's armory are secured in locked containers, separate from military weapons and ammunition, and inventoried, per reference (e).

(d) Ensure daily site counts and inventory reflect the accountability and proper storage of privately owned firearms.

(e) When the owner of any privately owned firearm cannot be determined ensure the firearm is disposed of in accordance with guidance contained in the references.

(f) Ensure personal weapons and ammunition are permanently withdrawn from the armory only after written approval of the CO or authorized representative.

(g) Ensure that the North Carolina Concealed Handgun Permit Class is completed prior to granting authorization for a service member to apply for a concealed handgun permit.

5. Administration and Logistics. This Order has been coordinated with and concurred by the CGs of MCIEAST-MCB CAMLEJ, II Marine Expeditionary Force, 2d Marine Division, 2d Marine Logistics Group, Commander, U.S. Marine Corps Forces, Special Operations Command; and the COs of the Naval Hospital, U.S. Coast Guard Joint Maritime Training Center, Marine Corps Combat Service Support Schools, School of Infantry-East, and Marine Corps Engineer School.

6. Command and Signal

a. Command. This Order is applicable to MCIEAST-MCB CAMLEJ and its subordinate and tenant commands.

b. Signal. This Order is effective the date signed.

R. F. CASTELLVI

DISTRIBUTION: A/B/C

ENCLOSURE 5

MARADMIN 176-14

INTERIM GUIDANCE FOR PRIVATELY OWNED FIREARMS POLICY ABOARD MARINE CORPS INSTALLATIONS

(3 April 2014)

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INTERIM GUIDANCE FOR PRIVATELY OWNED FIREARMS POLICY ABOARD MARINE CORPS INSTALLATIONS

Date Signed: 4/3/2014 | MARADMINS Number: 176/14

MARADMINS : 176/14

R 031603Z APR 14
UNCLASSIFIED/
MARADMIN 176/14
MSGID/GENADMIN,USMTF,2007/CMC WASHINGTON DC DMCS(UC)/F002//
SUBJ/INTERIM GUIDANCE FOR PRIVATELY OWNED FIREARMS POLICY ABOARD MARINE CORPS INSTALLATIONS//
REF/A/DOC/USD(I) WASHINGTON DC/17APR2012//
REF/B/DOC/CMC WASHINGTON DC PPO PS/05JUN2009//
REF/C/DOC/COMUSFFC AND COMMARFORCOM/31OCT2013//
NARR/REFERENCE (A) IS DOD MANUAL 5100.76, PHYSICAL SECURITY OF SENSITIVE CONVENTIONAL ARMS, AMMUNITION, AND EXPLOSIVES. REFERENCE (B) IS MCO 5530.14A, MARINE CORPS PHYSICAL SECURITY PROGRAM MANUAL, WHICH ADDRESSES THE COMMANDER'S AUTHORITY TO AUTHORIZE STORAGE OF PERSONAL WEAPONS AND AMMUNITION ABOARD INSTALLATIONS. REFERENCE (C) IS THE COMMANDER, U.S. FLEET FORCES COMMAND AND COMMANDER, U.S. MARINE CORPS FORCES COMMAND BASE, STATION, AND INSTALLATION PHYSICAL SECURITY ASSESSMENT REPORT, PART 2.//
POC/MR. TONY PIERCE/CIV/UNIT: PPO PS/EMAIL: CHARLES.A.PIERCE1(AT)USMC.MIL/TEL: (703) 695-7202//
POC/MR. BOB RICE/CIV/UNIT: MCICOM/EMAIL: ROBERT.D.RICE(AT)USMC.MIL/TEL: (571) 256-8420//
GENTEXT/REMARKS/1. FOLLOWING THE WASHINGTON NAVY YARD SHOOTING ON 16 SEPTEMBER 2013, THE MARINE CORPS CONDUCTED A COMPREHENSIVE REVIEW OF SERVICE POLICY RELATED TO THE HANDLING, STORAGE, AND ACCOUNTABILITY OF PRIVATELY OWNED FIREARMS AND AMMUNITION ABOARD OUR INSTALLATIONS. AS A RESULT OF THAT REVIEW, GAPS IN POLICY WERE IDENTIFIED. THIS MARADMIN ADDRESSES THESE GAPS WHILE REEMPHASIZING CURRENT GUIDANCE IN REFERENCES (A) AND (B). IN ORDER TO ENSURE GOOD ORDER, DISCIPLINE, SECURITY, AND

FORCE PROTECTION, WE WILL MORE AGGRESSIVELY ADDRESS FIREARMS POLICIES ACROSS OUR TOTAL FORCE THROUGH MORE CONSISTENT ENFORCEMENT OF REGULATIONS, ENGAGED LEADERSHIP, AND INCREASED ACCOUNTABILITY. MARINES ARE EXPECTED TO HANDLE PRIVATELY OWNED FIREARMS WITH THE SAME LEVEL OF SAFETY AND PROFESSIONALISM THAT IS REQUIRED WHEN HANDLING THEIR INDIVIDUAL T/O WEAPONS.

2. BACKGROUND. REFERENCE (A) PROVIDES BROAD OVERARCHING PHYSICAL SECURITY POLICY FOR CONVENTIONAL ARMS, AMMUNITION AND EXPLOSIVES. AS A RESULT OF RECENT INCIDENTS INVOLVING THE MISUSE OF FIREARMS ABOARD MARINE CORPS BASES AND STATIONS, IN ORDER TO ENSURE FULL COMPLIANCE WITH REFERENCE (B), AND AS DIRECTED BY REFERENCE (C), A HEADQUARTERS MARINE CORPS STUDY GROUP LED BY COMMANDER, MARINE FORCES COMMAND AND PRIMARILY SUPPORTED BY THE DEPUTY COMMANDANT FOR PLANS, POLICIES AND OPERATIONS, AND THE DEPUTY COMMANDANT FOR INSTALLATIONS AND LOGISTICS, WAS FORMED TO REVIEW PRIVATELY OWNED FIREARMS POLICIES AND PROCEDURES. THE REVIEW FOUND THAT DEPARTMENT OF DEFENSE (DOD) GUIDANCE ASSIGNS RESPONSIBILITY FOR PERSONALLY OWNED FIREARMS TO DOD COMPONENTS AND THAT CURRENT MARINE CORPS POLICY DOES ADDRESS THE POSSESSION, SECURITY, REGISTRATION, AND STORAGE. HOWEVER, THERE IS NO OVERARCHING PRESCRIPTIVE INSTRUCTION ADEQUATELY GOVERNING THE USE AND HANDLING OF PRIVATELY OWNED FIREARMS ABOARD INSTALLATIONS AT EITHER THE DOD OR MARINE CORPS LEVEL. ACCORDINGLY, THE INTENT OF THIS MARADMIN IS TO PUBLISH THE MINIMUM BASELINE STANDARDS FOR ALL MARINE INSTALLATIONS AS INTERIM POLICY UNTIL DOD GUIDANCE IS UPDATED AND THE UPDATE TO REFERENCE (B) IS COMPLETED, STAFFED, AND APPROVED.

3. EXECUTION

3.A. ALL COMMANDERS WILL REVIEW AND UPDATE THEIR CURRENT LOCAL DIRECTIVES CONCERNING PRIVATELY OWNED FIREARMS IN ACCORDANCE WITH REFERENCE (B), THIS MARADMIN, AND IN COORDINATION WITH THEIR SERVICING HUMAN RESOURCES OFFICE (TO FULFILL LABOR OBLIGATIONS). CONSISTENT WITH THE REFERENCES AND INSTALLATION COMMANDERS' INHERENT AUTHORITY TO ENSURE GOOD ORDER, DISCIPLINE, SECURITY, AND FORCE PROTECTION ABOARD THEIR RESPECTIVE INSTALLATIONS, LOCAL DIRECTIVES WILL CONTAIN PROVISIONS THAT:

3.A.1. PROHIBIT PRIVATELY OWNED FIREARMS IN ALL FEDERAL FACILITIES, TO INCLUDE GOVERNMENT LEASED SPACES AND GOVERNMENT VEHICLES.

3.A.2. PROHIBIT CARRYING PRIVATELY OWNED FIREARMS AS CONCEALED WEAPONS ABOARD MARINE CORPS INSTALLATIONS.

3.A.3. ENSURE ALL PRIVATELY OWNED FIREARMS STORED ABOARD MARINE CORPS INSTALLATIONS ARE REGISTERED AND ON FILE WITH THE PROVOST MARSHAL'S OFFICE/MARINE CORPS POLICE DEPARTMENT.

3.A.4. PROHIBIT STORAGE OF PRIVATELY OWNED FIREARMS AND AMMUNITION IN BACHELOR ENLISTED QUARTERS (BEQ) (NONCOMMISSIONED OFFICERS AND BELOW).

STORAGE WITHIN THE BACHELOR OFFICER QUARTERS (BOQ) AND STAFF NONCOMMISSIONED OFFICER BEQ IS AT THE DISCRETION OF THE INSTALLATION COMMANDER. COMMANDERS ARE AUTHORIZED TO ALLOW MARINES TO STORE PERSONALLY OWNED FIREARMS IN UNIT OR INSTALLATION ARMORIES.

3.A.5. REEMPHASIZE COMPLIANCE REGARDING STORAGE OF PRIVATELY OWNED FIREARMS AND AMMUNITION IN GOVERNMENT FAMILY HOUSING.

3.A.6. IN ALL CASES, PRIVATELY OWNED FIREARMS WILL BE STORED IN A FULLY ENCASED CONTAINER (E.G. COMMERCIAL GUN SAFE, HARD PLASTIC CASE, ETC.) THAT IS CAPABLE OF COMPLETELY ENCLOSING THE FIREARMS AND BEING LOCKED WITH A KEY OR COMBINATION LOCK. ALL FIREARMS WILL BE FITTED WITH A TRIGGER LOCK.

3.A.7. AMMUNITION MUST BE STORED SEPARATELY FROM FIREARMS AND IN A CONTAINER CAPABLE OF BEING LOCKED WITH A KEY OR COMBINATION LOCK.

3.A.8. PRIVATELY OWNED FIREARMS WILL NOT BE STORED IN PRIVATELY OWNED VEHICLES (POV'S) ABOARD MARINE CORPS INSTALLATIONS.

3.A.9. ALL PERSONNEL WILL CONTINUE TO COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS FOR THE PURCHASE, REGISTRATION, TRANSPORTATION, AND STORAGE OF PRIVATELY OWNED FIREARMS AND AMMUNITION.

3.A.10. TRANSPORTING PRIVATELY OWNED FIREARMS IS AUTHORIZED IN POV'S TO AND FROM AN AUTHORIZED STORAGE AREA OR TO AN OFF-BASE LOCATION CONSISTENT WITH FEDERAL, STATE, AND LOCAL LAWS. THEY MAY ALSO BE TRANSPORTED TO AND FROM ON-BASE AREAS WHERE FIREARMS USE IS AUTHORIZED, SUCH AS HUNTING AREAS OR RECREATIONAL SHOOTING RANGES. CURRENT POLICIES THAT PERMIT HUNTERS ON BASES ARE ADEQUATE AND THIS MARADMIN DOES NOT REQUIRE THEIR WEAPONS TO BE REGISTERED UNLESS THEY ARE STORED ON BASE.

3.A.11. COMMANDERS WILL ENSURE ALL PERSONNEL UNDERSTAND AND COMPLY WITH THE CONTENTS OF THIS MARADMIN.

3.B. COMMANDERS WITH OPERATIONAL RESPONSIBILITY OVER AN ARMORY WILL:

3.B.1. ENSURE DAILY SIGHT COUNTS AND INVENTORIES REFLECT ACCOUNTABILITY AND PROPER STORAGE OF PRIVATELY OWNED FIREARMS.

3.B.2. ENSURE ANY PRIVATELY OWNED FIREARM WHOSE OWNER CANNOT BE DETERMINED IS DISPOSED OF IN ACCORDANCE WITH GUIDANCE CONTAINED IN THE REFERENCES.

4. COORDINATING INSTRUCTIONS

4.A. INSTALLATION COMMANDERS WILL COORDINATE WITH THEIR SUPPORTED COMMANDERS/TENANTS TO ENSURE THAT THEY UNDERSTAND THE CONTENTS OF THIS MARADMIN AND ITS APPLICABILITY.

4.B. TENANT COMMANDS AND ACTIVITIES THAT ARE SUBJECT TO BASE ORDERS ABOARD MARINE CORPS INSTALLATIONS WILL COMPLY WITH THIS MARADMIN AND APPLICABLE ORDERS/DIRECTIVES.

4.C. GUIDANCE CONTAINED IN THIS MARADMIN WILL BE INCORPORATED INTO THE NEXT REVISION TO REFERENCE (B).

5. SIGNAL. THIS MARADMIN IS APPLICABLE TO THE MARINE CORPS TOTAL FORCE.
6. RELEASE AUTHORIZED BY GENERAL JOHN. M. PAXTON, JR., ASSISTANT COMMANDANT OF THE MARINE CORPS.//

DEPARTMENT OF THE NAVY
NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES v. JESSE T. BOPP CORPORAL/E-4 U.S. MARINE CORPS	**GOVERNMENT MOTION FOR APPROPRIATE RELIEF (Preliminary Ruling on Admissibility for Vehicle Search & Seizure)** 30 May 2024

1. Nature of Motion.

The Government requests that the Court provide a preliminary ruling on the admissibility of the command authorizations for search and seizure for the accused's vehicle and barracks.

2. Burden of Proof and Persuasion.

As the moving party, the Government bears the burden of proof and persuasion.[1]

3. Summary of Facts.

On 18 October 2023, Corporal Jesse Bopp shot and killed Lance Corporal A.S.[2] He was taken into custody later that day and placed into pre-trial confinement on 19 October 2023. Charges were preferred against him on 29 November 2023.[3] An Article 32 Preliminary Hearing was held 3 January 2024. On 19 January 2024, the Convening Authority referred his charges to this general court-martial. The accused was arraigned on 5 March 2024.

On 19 October 2023, the Commanding Officer of 2d Battalion, 6th Marines, Lieutenant

[1] R.C.M. 905(c).
[2] Names of victims and witnesses will be redacted IAW EJCR 7.3.
[3] Charge Sheet

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Colonel J.A., signed two command authorizations for search and seizure (CASS). The CASS' were for the search[4] of the accused's barracks room (Barracks HP 255, Room 319)[5] and personally owned vehicle (2014 Jeep Cherokee, Wisconsin License Plate #: APL8150).[6] The search authorization for the barracks room included permission to seize:

ATTACHMENT B

Particular Things to be Seized

The following items and data are to be seized and searched for evidence, fruits, and instrumentalities related to violations of Article 118 (Murder) and Article 119 (Manslaughter) of the Uniform Code of Military Justice (UCMJ):

1) Firearms
2) Ammunition
3) Holsters
4) Firearm storage containers
5) Purchase Receipts for firearms and/or ammunition
6) Medication

The search authorization for the vehicle included permission to seize:

ATTACHMENT B

Particular Things to be Seized

The following items and data are to be seized and searched for evidence, fruits, and instrumentalities related to violations of Article 118 (Murder) and Article 119 (Manslaughter) of the Uniform Code of Military Justice (UCMJ):

1) Firearms
2) Ammunition
3) Holsters
4) Firearm storage containers
5) Purchase Receipts for firearms and/or ammunition

[4] Enclosure 1: Barracks Room CASS.
[5] Enclosure 2: Barracks Property Record.
[6] Enclosure 3: Vehicle CASS.

LtCol J.A. based his probable cause determinations on the written probable cause affidavits of Naval Criminal Investigative Service (NCIS) Special Agent J.G. In his probable cause affidavit for the barracks room[7], SA J.G. stated that based on his investigation it was discovered that the accused lived in barracks HP 255, in room 319, aboard Marine Corps Base Camp Lejeune, and that the accused possessed a Walther PP pistol, Serial Number FDG1442 firearm in the barracks, which was the firearm that he used to kill LCpl A.S. This information was the basis for SA J.G.'s belief that evidence of a crime relating to the weapon could be found in the accused's barracks room. In the probable cause affidavit for the Jeep Cherokee[8], SA J.G.observed that:

> 9. A black in color 2014 Jeep Cherokee, bearing Wisconsin Registration APL8150, was located in the parking lot immediately adjacent to HP 255. The vehicle was found to be registered to S/BOPP. S/BOPP was previously recorded operating this vehicle on 13Mar23 as part of an unrelated traffic violation for a separate individual (Incident # 13MAR23-24LE-01100-7LMA). A visual examination of the exterior area of the vehicle resulted in observation of a small, black in color, Pelican brand hard case in the rear cargo area. The Pelican hard case was of consistent size to store a pistol or similarly sized objects.

This information was the basis for SA J.G.'s belief that evidence of a crime relating to the weapon could be found in the accused's Jeep Cherokee. In his probable cause affidavit, SA J.G. noted that he did not currently know where the keys to the Jeep Cherokee were located, but that NCIS would attempt to locate the keys prior to conducting the search of the vehicle.

The CASS' were executed by multiple NCIS agents at the same time.[9] While executing the CASS for the barracks room, the accused's key fob for his Jeep Cherokee was found.[10] Those keys were then used to unlock the Jeep Cherokee where the accused's gun storage

[7] Enclosure 4: Barracks Probable Cause Affidavit.
[8] Enclosure 5: Vehicle Probable Cause Affidavit.
[9] Enclosure 6: Vehicle CASS NCIS ROI IA.
[10] Enclosure 7: Photos of Keys in Accused's Barracks Room.

container (Pelican case model 1470) was found in the rear of the vehicle. After the vehicle search concluded, the vehicle was locked, and the keys were returned to the accused's barracks room and left there.[11]

4. Discussion of Law and Analysis.

The Law

Relevant evidence obtained from reasonable searches[12] and seizures[13] conducted pursuant to a search authorization is admissible at trial. A search authorization must be based on probable cause.[14] Probable cause exists when there is a reasonable belief that the property or evidence sought is located in the place to be searched[15] and may be communicated in writing.[16] A search authorization means express permission issued by a competent military authority to search an area for specified property or evidence and to seize such property or evidence.[17] A search authorization is valid if issued by an impartial[18]commander who has control over the place where

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[11] Enclosure 6: Vehicle CASS NCIS ROI IA.

[12] "Evidence obtained from reasonable searches conducted pursuant to a search warrant or search authorization, or under the exigent circumstances described in this rule, is admissible at trial when relevant and not otherwise inadmissible under these rules or the Constitution of the United States as applied to members of the Armed Forces." M.R.E. 315(a).

[13] "(a) General rule. Evidence obtained from reasonable seizures is admissible at trial when relevant and not otherwise inadmissible under these rules or the Constitution of the United States as applied to members of the Armed Forces." MRE 316(a).

[14] "(1) Probable Cause Requirement. A search authorization issued under this rule must be based upon probable cause." MRE 315(f)(1).

[15] "(2) Probable Cause Determination. Probable cause to search exists when there is a reasonable belief that the person, property, or evidence sought is located in the place or on the person to be searched. A search authorization may be based upon hearsay evidence in whole or in part. A determination of probable cause under this rule will be based upon any or all of the following:" MRE 315(f)(2).

[16] "(A) written statements communicated to the authorizing official[.]" MRE 315(f)(2)(A).

[17] "Search authorization" means express permission, written or oral, issued by competent military authority to search a person or an area for specified property or evidence or for a specific person and to seize such property, evidence, or person. It may contain an order directing subordinate personnel to conduct a search in a specified manner." MRE 315(b)(1).

[18] "(d) Who May Authorize. A search authorization under this rule is valid only if issued by an impartial individual in one of the categories set forth in paragraphs (d)(1), (d)(2), and (d)(3) of this rule…An otherwise impartial authorizing official does not lose impartiality merely because the official is present at the scene of a search or is otherwise readily available to persons who may seek the issuance of a search authorization; nor does such an official lose impartial character merely because the official previously and impartially authorized investigative activities when such previous authorization is similar in intent or function to a pretrial authorization made by the United States district courts." MRE 315(d).

property is found.[19] Property located on a military installation is within the control of a military commander.[20] An NCIS agent is permitted to execute a search authorization.[21] Evidence of a crime seized by a criminal investigator[22] pursuant to the search authorization is admissible.[23] A preliminary ruling on the admissibility of evidence is an appropriate motion for relief.[24]

Discussion

The evidence and information obtained through the two CASSs are admissible in court. The first CASS was a valid search authorization of the accused's barracks room. NCIS SA J.G.'s affidavit provided sufficient probable cause to search the room. His affidavit was based on the statements of Corporal B.H. to law enforcement and that information yielded a reasonable belief that evidence pertaining to the accused's firearm could be found in the accused's barracks room. The commanding officer accepted this probable cause from SA J.G., and in his official capacity authorized the search of the barracks that he controlled. The CASS was executed by credentialed NCIS agents. Similarly, the second CASS to search the accused's vehicle was also a valid search

[19] "(1) Commander. A commander or other person serving in a position designated by the Secretary concerned as either a position analogous to an officer in charge or a position of command, who has control over the place where the property or person to be searched is situated or found, or, if that place is not under military control, having control over persons subject to military law or the law of war[.]" MRE 315(d)(1).
[20] "A search authorization may be valid under this rule for a search of: persons or property situated on or in a military installation, encampment, vessel, aircraft, vehicle, or any other location under military control, wherever located[.]" MRE 315(b)(1).
[21] "(1) Search Authorization. Any commissioned officer, warrant officer, petty officer, noncommissioned officer, and, when in the execution of guard or police duties, any criminal investigator, member of the Air Force security forces, military police, or shore patrol, or person designated by proper authority to perform guard or police duties, or any agent of any such person, may conduct or authorize a search when a search authorization has been granted under this rule or a search would otherwise be proper under subdivision (g)." MRE 316(e)(1).
[22] "(d) Who May Seize. Any commissioned officer, warrant officer, petty officer, noncommissioned officer, and, when in the execution of guard or police duties, any criminal investigator, member of the Air Force security forces, military police, or shore patrol, or individual designated by proper authority to perform guard or police duties, or any agent of any such person, may seize property pursuant to this rule." MRE 316(d).
[23] "(1) Based on Probable Cause. Evidence is admissible when seized based on a reasonable belief that the property or evidence is an unlawful weapon, contraband, evidence of crime, or might be used to resist apprehension or to escape." MRE 316(c)(1).
[24] "The following may be requested by motion for appropriate relief. This list is not exclusive. (13) Admissibility. Preliminary ruling on the admissibility of evidence." RCM 906(b)(13).

authorization. SA J.G. established probable cause by visually observing the outside of the vehicle and noticing a pelican case. Because the vehicle was parked onboard Marine Corps Base Camp Lejeune, in the parking lot of Barracks HP 255, the commanding officer had the authority to authorize the search of that vehicle. Additionally, the commanding officer authorized the ancillary search for the keys, which when located in the accused's barracks room pursuant to that search authorization, were permitted to be utilized to unlock the car pursuant to the second search authorization. SA J.G. performed the search pursuant to his official duties. Because these two CASSs were reasonable searches based on probable cause, the gun case retrieved from the vehicle and the information obtained from the searches of the barracks room and vehicle should be admissible in the accused's trial by court-martial.

5. Relief Requested.

The Government respectfully requests that this Court find that the command authorization for the search of the accused's vehicle was legally valid and that the fruits from those searches are admissible at trial.

6. Evidence.

a. Enclosure 1: Barracks Room CASS.

b. Enclosure 2: Barracks Property Record.

c. Enclosure 3: Vehicle CASS.

d. Enclosure 4: Barracks Probable Cause Affidavit.

e. Enclosure 5: Vehicle Probable Cause Affidavit.

f. Enclosure 6: Vehicle CASS NCIS ROI IA.

g. Enclosure 7: Photos of Keys in Accused's Barracks Room.

h. Testimony of NCIS SA J.G.

7. **Oral Argument.** The Government requests an opportunity to respond to any argument made by Defense Counsel.

[redacted]

Jason D. Samuel
Major, USMC
Special Trial Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Government Motion For Appropriate Relief was served electronically on defense counsel on 30 May 2024.

[redacted]

Jason D. Samuel
Major, USMC
Special Trial Counsel

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ENCLOSURE 1

Barracks Room CASS

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Command Authorization for Search and Seizure

UNITED STATES OF AMERICA
VS.
Cpl Jesse Thomas BOPP, USMC

TO: Agents/Authorized Representatives of the Naval Criminal Investigative Service

Affidavit(s) having been made before me by Special Agent Jason GRIESS

That there is reason to believe that on the person of and/or on the premises known as:
See Attachments A.

which is/are under my jurisdiction,

there is now being concealed certain property, namely:
See Attachment B.

I am satisfied that there is probable cause to believe that the property so described is being concealed on the person and/or premises above described and that grounds for application for issuance of a command authorized search exist as stated in the supporting affidavit(s).

YOU ARE HEREBY AUTHORIZED TO SEARCH the person and/or place named for the property specified and if the property is found there to seize it, leaving a copy of this authorization and receipt for the property taken. You will provide a signed receipt to this command, containing a full description of every item seized.

Any assistance desired in conducting this search will be furnished by this command.

Dated this 19th day of Oct, 2023.

[redacted]
Signature of Person Authorizing Search

Lt Col, USMC Commanding Officer
Rank, Service, Title

2d Battalion, 6th MARINES
Command

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NCIS 5580/7 (2/1999) (Formerly NCISFORM 024/08-92)

EXHIBIT (31) ENCLOSURE (A)

Naval Criminal Investigative Service

UNITED STATES OF AMERICA
VS.
Cpl Jesse Thomas BOPP, USMC

BEFORE the LtCol James ARMSTRONG, Commanding Officer, 2nd Bn, 6th Marines, 2nd MarDiv, CLNC

The undersigned, being duly sworn, requests authority to search:
See Attachments A.

Believing that there is now being concealed certain property, namely:
See Attachments B.

The request for authorization to search and seize is made in connection with an investigation into the offense(s) of :
Uniform Code of Military Justice - Article 118 (Murder) and Article 119 (Manslaughter).

The facts and circumstances known to me tending to establish the foregoing grounds for authorization to search and seize, including comments demonstrating the reliability of the information and/or informant, are as follows:
See Affidavit.

[redacted]
Signature of Affiant
Representative, Naval Criminal Investigative Service

Sworn to before me, and subscribed in my presence, this 19th day of Oct, 2023.

[redacted]
Signature of Person Administering Oath
LtCol, USMC Commanding Officer
Rank, Service, Title

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NCIS 5580/1 (1/2001) (Formerly NCISFORM 023/08-92)

ATTACHMENT A

Person, Premises and Property to Be Searched

1. Barracks HP 255, Room 319, Camp Lejeune, NC.

ATTACHMENT B

Particular Things to be Seized

The following items and data are to be seized and searched for evidence, fruits, and instrumentalities related to violations of Article 118 (Murder) and Article 119 (Manslaughter) of the Uniform Code of Military Justice (UCMJ):

1) Firearms
2) Ammunition
3) Holsters
4) Firearm storage containers
5) Purchase Receipts for firearms and/or ammunition
6) Medication

ENCLOSURE 2

Barracks Property Record

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CLASS 2 PROPERTY RECORD

RPA NAME	BEQ	**FACILITY NUMBER**	HP255
		ASSET EVALUATION DATE	
		REPORT DATE	03 JAN 2024

INSTALLATION UIC	M67001	MCB CAMP LEJEUNE NC	**REAL PROPERTY UNIQUE ID**		44037
FACILITY ID	NFA100000329343		**PROPERTY RECORD NO**		208212
COMMAND CLAIMANT	M00027	MARCORP	**RPA TYPE CODE**	B	Building
MANPOWER BSO	CMC		**FAMILY HOUSING INDICATOR**		N
OPERATIONAL STATUS	ACT	Active	**NEIGHBORHOOD NAME**		MAIN BASE
SPECIAL AREA	DA	HADNOT POINT			

LOCATION

REGION		
COUNTRY	USA	UNITED STATES
STATE	37	NORTH CAROLINA
COUNTY	133	ONSLOW
CITY	0735	CAMP LEJEUNE
MAP GRID	F574	
STREET ADDRESS	1546 F ST	
STREET TYPE CODE	ST	
STREET DIRECTION CODE		
MGRS LOCATION	18STD8428738661	
MGRS LOCATION METHOD	AGS	

DISPOSAL

CONSOLIDATED PROPERTY NO	
DISPOSAL METHOD CODE	
DISPOSAL PROGRAMMED FY	
DISPOSAL COMPLETION DATE	
DISPOSAL CONTRACT NO	
EXCESS DECLARATION DATE	
SURPLUS DETERMINATION DATE	

ACQUISITION

ESTATE CODE	11	MCON	**ACQUISITION DATE**	01 JUL 1983
INTEREST TYPE	FEE	U.S. Government owned property	**GOVERNMENT COST**	$ 6,380,166.95
LAND CCN			**COST ID 1 PLACED IN SERVICE DATE**	01 JUL 1983
ACQ CONTRACT NO	N6247079C9061			
FINANCIAL REPORTING ORG	08	MARINE CORPS ACTIVE		

MAINTENANCE

PREPONDERANT USER	M91363	2D MARINES
PREDOMINANT CAT CODE	72111	UNACC ENL HSG
PRIME FAC CODE	7210	ENLISTED UNACCOMPANIED PERSONNE
MNT FUND SOURCE CODE	4	USMC
MNT RESPONSIBILITY UIC	M67001	MCB CAMP LEJEUNE NC
CURRENT PRV	$	30,566,053
PRV AT EOY 23	$	30,566,053

MEASUREMENTS

	ENGLISH	METRIC
LENGTH	318.00	96.93
WIDTH	62.00	18.90
HEIGHT	40.00	12.19
AREA	46,877.00	4,355.02
AREA UM	SF	M2
FLOOR ABOVE GROUND QUANTITY		3
FLOOR BELOW GROUND QUANTITY		0

CONSTRUCTION

FACILITY BUILT DATE	01 JUL 1983	
CONSTRUCTION TYPE	PERM	PERMANENT FACILITY
HISTORIC STATUS DATE	13 NOV 2019	
HISTORIC STATUS CODE	DNE	Determined Not Eligible for Listing

READINESS FACTORS

MDI	16	**DATE**	30 JAN 2021
CONDITION RATING	91	**DATE**	14 DEC 2016
CONFIGURATION RATING	100	**DATE**	29 APR 2010
FACILITY CONDITION INDEX	89	**DATE**	25 SEP 2019

FIAR E AND C

VERIFICATION DATE	03 JAN 2023	**INVENTORY REQUIRED**	Y	**ASSET EXISTS**	Y
VERIFIED BY	CARLTON SIMS	**TAGGED**	Y	**DE VALIDATED**	U
DISPOSAL REASON					
REMARKS					

AE XX

CLASS 2 PROPERTY RECORD

RPA NAME BEQ **FACILITY NUMBER** HP255

ASSET EVALUATION DATE

REPORT DATE 03 JAN 2024

UTILIZATION

UTILIZATION ID	1				
FAC USE CCN	72111 UNACC ENL HSG	**SET BACK VALUE**	30,000.00	**DOD FAC**	7210
FACILITY USE	BACH ENL QTRS-MARINE E1/E4	**MAX VALUE**	330,000.00	**DOD UM**	SF
USER ACTIVITY	M91363 2D MARINES			**PRIMARY UM**	PN
SIZE CERT CODE	A				

CONFIGURATION

	AREA		OTHER		ALTERNATE	
	English	Metric	English	Metric	English	Metric
ADEQUATE	46,877.00	4,355.02	192.00	192.00		
SUBSTANDARD						
INADEQUATE						
TOTAL	46,877.00	4,355.02	192.00	192.00		
UNIT OF MEASURE	SF	M2	PN	PN		

SUSTAINMENT FUND SOURCE 1106 Operation and Maintenance, Marine Corps

SUSTAINMENT ORGANIZATION 08 MARINE CORPS ACTIVE

OPERATIONAL FUND SOURCE 1106 Operation and Maintenance, Marine Corps

OPERATIONAL FUNDING ORG 08 MARINE CORPS ACTIVE

NOTES

25 SEP 2002	25 Sep 02 Non-cap paint ext/int, $37462...lab
24 MAY 2005	24MAY05 CHANGED PR REVIEW/EED DATE, PER HM/CORRS WS. DAF
29 JAN 2007	29-Jan-07 CHANGED PR REVIEW/EED DATE, PER PP/CORRS WS. DAF
31 OCT 2007	31-Oct-07 CHANGED PR REVIEW/EED DATE, CHANGED FROM ADQ TO SUBSTD, PER PP/CORRS WS. DAF
24 JUL 2009	24 Jul 09 Final DD1354 for 06-4002/0021. Major Interior Exterior Repairs, HP225. Voucher # V-2009-0245. Received 21 Jul 09 at 0927 AM. This is 7 of 13 DD1354's received all at once. Received more than 10 days past Effective Date. Infads stopped updating records on 21 Jul 09. Added costs $3,238,355. Support documentation on doc tab.....lab
15 MAR 2010	15 Mar 10 Updated Facility Use per Nina McBroom...lab
29 APR 2010	29-Apr-10 CHANGED PR EED DATE, CHANGED FROM SUBSTD TO ADQ, PER PP/CORRS WS. DAF
20 SEP 2015	23 FEB 2015 Based on site visit, the facility is currently vacant and is being renovated. - Reid Planning
20 SEP 2015	23 FEB 2015 Due to ongoing renovation, the facility suitability has been changed from Substandard to Adequate. - Reid Planning
04 FEB 2016	04FEB16-UPDATED PQR RATING, FCI RATING/DATE, ASSET EVAL DATE PER THE BUILDING INSPECTION WORKSHEET FROM PWD DTD 23SEP15. ADDED SUPP DOC TO DOC TAB.ATD
10 FEB 2016	10FEB16- CAP IMPR PER INTERIM DD1354 FOR 09-5340/0036 PWO # 11-0158, INTERIOR AND EXTERIOR REPAIRS HP255, VOUCHER # V-2016-0072. ADDED COST OF $443587.70 ($401266.70 & $42,321 FOR THE TRANSFORMER). ADDED 10 FT TO THE HEIGHT OF THE BLDG. THIS COST INCLUDES A 750KV TRANSFORMER. THIS IS 1 OF 2 DD1354S RCVD ON 05FEB16. SUPP DOC ADDED TO DOC TAB.ATD
20 MAY 2016	20MAY16-UPDATED/VALIDATED FACILITY BUILT/ACQ/PIS DATE AS 01JUL1983 TO MATCH PIS DATE MEMO AND ENCL. WILL ADD PIS MEMO/ENCL ONCE SIGNED BY RPAO/REA TO THE DOC TAB. ATD
14 JUN 2016	14JUN16-ADDED SIGNED PIS DATE MEMO AND ENCL TO THE DOC TAB.ATD
23 AUG 2016	This MDI was updated by MCICOM on 19-August-2016 in accordance to results from Mission Assurance Assessments.
27 MAR 2017	Update performed by MCICOM GF-2. This MDI Value is based on a normalized MDI Derived from the MDI Assessment performed by HQMC PP&O on this individual asset.
24 AUG 2017	MCICOM GF2 revised the MDI value to reflect USMC initiatives per direction from CMC
01 DEC 2017	01DEC17-UPDATED AE DATE TO 23FEB15 AS INDICATED ON THE AE PACKET ON THE DOC TAB. THE AE DATE WAS UPDATED IN ERROR ON 04FEB16 WHEN THE FCI DATA WAS UPDATED. ATD
07 FEB 2018	Mass Upload by MCICOM GF-2 Due to CMP Condition Inspections in MCIEAST in Feb 2018
13 SEP 2018	UIC changed from M67001 to M91363 to reflect current user.
13 SEP 2018	AE uploaded by Tidewater Planning & Design.
07 MAY 2019	07MAY19- UPDATED UTIL, INSP, INVQ DATES TO 28MAR2019 PER AE. ADDED SUPPORT DOC TO DOC TAB.SS
25 OCT 2019	25OCT19-ADDED COND TAB PER FCI SHEET. UPDATED FCI TO 89 FROM BUILDING INSPECTION SHEET FROM PWD DATED 25SEP2019. ADDED SUPPORTED DOC TO THE DOC TAB. KTC
28 JAN 2020	With confirmation from the Camp Lejeune¿s Cultural Resources Program Manager, updated Historic Status Date and Historic¿ Status Code to reflect the current list of historic facilities on Camp Lejeune with a code of NREI or NREC and date of 11Dec2008. Per NC SHPO, all other facilities on Camp Lejeune are deemed not eligible ¿for historic purposes. This is outlined in the confirmation email from the NC SHPO office dated 13Nov2019. Support documentation is added to the doc tab. ATD. MASS UPDATE PERFORMED BY MCICOM AND PP&O, MAY 2022. UPDATE TO MCI/MDI RELATED FIELDS. NEW MDI

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24 MAY 2022	PROCESS ONSITE ASSESSMENT, VIRTUAL DATA UPDATES AND ALIGNMENT TO MCCAMS DATA SETS.
02 JUN 2022	MASS UPDATE PERFORMED BY MCICOM AND PP&O, MAY 2022. UPDATE TO MCI/MDI RELATED FIELDS. NEW MDI PROCESS ONSITE ASSESSMENT, VIRTUAL DATA UPDATES AND ALIGNMENT TO MCCAMS DATA SETS.
28 SEP 2023	MASS UPDATE PERFORMED BY PP&O MISSION ASSURANCE TEAM, SEPTEMBER 2023. THE FOLLOWING VALUES WERE CHANGED:COMPLETED_MCI, MISSION_DEPENDENCY_INDEX, MDI_DATE, MCI_SURVEY_DATE,

DOCUMENTS

FILE NAME	DESCRIPTION	DOCUMENT UPLOAD DATE
SHPO Letter dated 11Dec2008 and CONFIRMATION OF HISTORIC STATUS CODE 13NOV2019.pdf	Historic Status Updates in FY20 Q2	24-JAN-20
HP255.pdf	FCI_SEP2019	25-OCT-19
M67001_EC_Sprdsht_20190428_V2 (002) (PDF_SIGNED).pdf	FY19_100%_E&C_Inventory	27-AUG-19
HP255 Physical Inventory Checklist.pdf	CHECKLIST FOR AE DATED 28MAR19	13-JUN-19
HP255 AE PACKET.pdf	AE 28 MARCH 2019	07-MAY-19
HP255 AE Packet.pdf	AE 10 July 2018	13-SEP-18
HP255 PIS DATE MEMO AND ENCL-signed.pdf	SIGNED PIS DATE MEMO AND ENCL	14-JUN-16
DD1354 V-2016-0072 09-5340 0036.pdf	INTERIM DD1354 FOR INTERIOR AND EXTERIOR REPAIRS FOR HP255	10-FEB-16
SEP 2015 PT1 FCI RATINGS-DATE.pdf	BUILDING INSPECTION WORKSHEETS	04-FEB-16
HP255 AE Packet.pdf	Reid Planning AE documentation	20-SEP-15
HP255 (721124).pdf	CORRS WS 9MAR10	29-APR-10
06400221.PDF	Final DD1354 for 06-4002/0021 Major Int/Ext Repairs HP255	24-JUL-09

Maximo Master Systems Condition

Master System	CI	Deficiency Cost ($)
	Total:	

ASSET REVIEW

Asset Review Type	Description	Asset Review Date	Fair Market Value Amount
ADA	ADA - Americans Disability Act	17-OCT-07	$0
ARCH	Archaeological	04-APR-84	$0
COND	Facility Condition Assessment Inspection	25-SEP-19	$0
ENVR	Environmental	04-APR-84	$0
FP	Force Protection	17-OCT-07	$0
FUNC	Functional (Adequacy) Condition Survey	10-JUL-18	$0
HIST	Historical	13-NOV-19	
INSP	Inspection-Physical (Existence)	28-MAR-19	$0
INVQ	Inventory - Quantitative	28-MAR-19	$0
LS	Life and Safety	17-OCT-07	$0
OH	Occupational Health	17-OCT-07	$0
RSRV	Records Search and Review	10-FEB-16	$0
UTIL	Utilization Inspection	28-MAR-19	$0

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ENCLOSURE 3

Vehicle CASS

Command Authorization for Search and Seizure

UNITED STATES OF AMERICA
VS.
Cpl Jesse Thomas BOPP, USMC

TO: Agents/Authorized Representatives of the Naval Criminal Investigative Service

Affidavit(s) having been made before me by Special Agent Jason GRIESS

That there is reason to believe that on the person of and/or on the premises known as:
See Attachments A.

which is/are under my jurisdiction,

there is now being concealed certain property, namely:
See Attachment B.

I am satisfied that there is probable cause to believe that the property so described is being concealed on the person and/or premises above described and that grounds for application for issuance of a command authorized search exist as stated in the supporting affidavit(s).

YOU ARE HEREBY AUTHORIZED TO SEARCH the person and/or place named for the property specified and if the property is found there to seize it, leaving a copy of this authorization and receipt for the property taken. You will provide a signed receipt to this command, containing a full description of every item seized.

Any assistance desired in conducting this search will be furnished by this command.

Dated this 19th day of Oct, 2023.

[redacted]
Signature of Person Authorizing Search

Lt Col, USMC, Commanding Officer
Rank, Service, Title

2d Battalion, 6th Marines
Command

AE XX

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NCIS 5580/7 (2/1999)

(Formerly NCISF[illegible])

000585

EXHIBIT (20) ENCLOSURE (4)

Affidavit for Search Authorization

Naval Criminal Investigative Service

UNITED STATES OF AMERICA
VS.
Cpl Jesse Thomas BOPP, USMC

BEFORE the LtCol James ARMSTRONG, Commanding Officer, 2nd Bn, 6th Marines, 2nd MarDiv, CLNC

The undersigned, being duly sworn, requests authority to search:
See Attachments A.

Believing that there is now being concealed certain property, namely:
See Attachments B.

The request for authorization to search and seize is made in connection with an investigation into the offense(s) of :
Uniform Code of Military Justice - Article 118 (Murder) and Article 119 (Manslaughter).

The facts and circumstances known to me tending to establish the foregoing grounds for authorization to search and seize, including comments demonstrating the reliability of the information and/or informant, are as follows:
See Affidavit.

[redacted]
Signature of Affiant
Representative, Naval Criminal Investigative Service

Sworn to before me, and subscribed in my presence, this 19TH day of Oct, 2023.

[redacted]
Signature of Person Administering Oath

LtCol, USMC, Commanding Officer 2d Battalion, 6th Marines
Rank, Service, Title

AE XX

NCIS 5580/1 (1/2001) (Formerly NCISFORM 023/08-92)

0000586

ATTACHMENT A

Person, Premises and Property to Be Searched

1. Black in color 2014 Jeep Cherokee bearing Wisconsin Registration Number APL8150.

ATTACHMENT B

Particular Things to be Seized

The following items and data are to be seized and searched for evidence, fruits, and instrumentalities related to violations of Article 118 (Murder) and Article 119 (Manslaughter) of the Uniform Code of Military Justice (UCMJ):

1) Firearms
2) Ammunition
3) Holsters
4) Firearm storage containers
5) Purchase Receipts for firearms and/or ammunition

ENCLOSURE 4

Barracks Probable Cause Affidavit

AFFIDAVIT IN SUPPORT OF

APPLICATION FOR COMMAND AUTHORIZATION FOR SEARCH AND SEIZURE

AGENT BACKGROUND

1. I, Jason Griess (Your Affiant), Special Agent with the United States Naval Criminal Investigative Service Resident Agency (NCISRA), Camp Lejeune, North Carolina (CLNC), being first duly sworn, hereby depose and state as follows:

2. Your Affiant is a Special Agent with U. S. Naval Criminal Investigative Service (NCIS). Your Affiant has been assigned to NCIS since July 2022. Your Affiant is currently assigned to the General Crimes Squad, NCISRA CLNC. Your Affiant is routinely tasked to investigate violations of the Uniform Code of Military Justice (UCMJ) and Federal crimes. These types of violations include crimes of violence, domestic violence, adult sexual assault and abusive sexual contact, larceny, theft, crimes against persons, and crimes related to child exploitation and child pornography, including the illegal production, distribution, receipt, and possession of child pornography.

3. Your Affiant has completed a five-month NCIS Special Agent Basic Training Integrated (SABTI) program at the Federal Law Enforcement Training Center in Glynco, GA. These programs provided Your Affiant with instruction regarding death investigations, sex crimes investigations, narcotics investigations, military law, civilian federal law, and other practical issues for investigators. Your Affiant has participated in a number of investigations as a Federal Special Agent. During these investigations, Your Affiant has conducted interviews, interrogations, and other follow-up investigative actions. Prior to becoming a Special Agent with NCIS, Your Affiant was Police Officer and Detective with the Jacksonville Police Department in Jacksonville, NC for over ten years. As a Detective, Your Affiant was assigned to the Federal Bureau of Investigation's (FBI) Coastal Carolina Child Exploitation and Human Trafficking Task Force as a Task Force Officer (TFO). Your Affiant possesses a Bachelor's degree in Criminal Justice through the University of North Carolina at Wilmington (UNCW).

4. This affidavit is based upon the investigative efforts of Your Affiant as well as other NCIS agents and other law enforcement members. Since this affidavit is being submitted for the limited purpose of securing a search warrant, Your Affiant has not included each and every finding from the investigation; rather, Your Affiant has set forth a summary of the investigation to date in order to establish probable cause that evidence, fruits, and instrumentalities of said violations are contained in said premises.

INVESTIGATION FACTS

5. On 18Oct23, Your Affiant was notified by USMC Criminal Investigative Division (CID) Agent Jacob WILLIAMS of a shooting that had just occurred at Barracks HP 255, Room 317, CLNC. The victim of the shooting was identified as LCpl Austin SCHWENK (V/SCHWENK), USMC, 2nd Battalion (2d Bn), 6th Marine Regiment (6th Marines), 2nd Marine Division (2d

MarDiv), CLNC. Agent WILLIAMS further advised the subject of the shooting was identified as Cpl Jesse BOPP (S/BOPP), USMC, 2d Bn, 6th Marines, 2d MarDiv, CLNC. Agent WILLIAMS advised S/BOPP fled the area after the incident. Officers of the Provost Marshals Office attempted to pursue S/BOPP; however, he was unable to be located. Agent WILLIAMS indicated V/SCHWENK succumbed to his wounds and his time of death was confirmed at 2001 hours on 18Oct23 by Dr. Raymond CUDNIK, Naval Medical Center Camp Lejeune.

6. Your Affiant arrived at HP 255 and conducted an initial interview with Cpl Benjamin HOUSE, USMC, 2d Bn, 6th Marines, 2d MarDiv, CLNC. Cpl HOUSE confirmed he is the roommate of V/SCHWENK, and they both reside at HP 255, Room 317 together. Cpl HOUSE stated S/BOPP had entered Room 317, where he and V/SCHWENK were at. Cpl HOUSE indicated S/BOPP appeared to be intoxicated as a result of consumption of numerous alcoholic beverages. Cpl HOUSE specifically stated he was aware S/BOPP had consumed at least four (4) alcohol beverages. Cpl HOUSE stated S/BOPP "whipped out" a pistol and aimed it at his own head. Cpl HOUSE stated S/BOPP then aimed the pistol toward V/SCHWENK and fired the weapon one (1) time. Cpl HOUSE stated S/BOPP "screamed," dropped the firearm onto the ground, and fled out of the barracks room.

7. Cpl HOUSE stated to Your Affiant that S/BOPP resides directly next door to them, in HP255, Room 319. Cpl HOUSE stated S/BOPP does not have a roommate at this time. In a later interview with NCIS Supervisory Special Agent Joe DiCostanzo, Cpl HOUSE stated S/BOPP has told him that S/BOPP regularly takes anti-anxiety medications.

8. A scene examination was completed by NCISRA Camp Lejeune Major Case Response Team of Barracks HP 255, Room 317, subject to a Permissive Authorization for Search and Seizure (PASS) that was signed by Cpl HOUSE. A Walther PP pistol, Serial Number FDG1442, was located and seized from the barracks room during the scene examination.

9. Your Affiant is aware that pistols are commonly sold in manufacture boxes. Additionally, it is common that the receipts of the firearm purchase and associated ammunition will be stored with the firearm itself. Pistols are commonly transported in manufacture boxes, holsters, and locking containers. People will commonly store their medications in their residences.

CONCLUSION

10. Based on the information above, Your Affiant submits probable cause exists to believe evidence of Murder, a violation of Article 118, and Manslaughter, a violation of 119 of the UCMJ, exists in the barracks room as described in Attachment B.

Dated this 19 day of October, 2023.

[redacted]

Signature of Affiant
Special Agent, NCIS

[redacted]

Signature of Person Authorizing Search

Lt Col, USMC, Commanding Officer

Rank, Service, Title

2d Battalion, 6th Marines

Command

ENCLOSURE 5

Vehicle Probable Cause Affidavit

AE XX

AFFIDAVIT IN SUPPORT OF

APPLICATION FOR COMMAND AUTHORIZATION FOR SEARCH AND SEIZURE

AGENT BACKGROUND

1. I, Jason Griess (Your Affiant), Special Agent with the United States Naval Criminal Investigative Service Resident Agency (NCISRA), Camp Lejeune, North Carolina (CLNC), being first duly sworn, hereby depose and state as follows:

2. Your Affiant is a Special Agent with U. S. Naval Criminal Investigative Service (NCIS). Your Affiant has been assigned to NCIS since July 2022. Your Affiant is currently assigned to the General Crimes Squad, NCISRA CLNC. Your Affiant is routinely tasked to investigate violations of the Uniform Code of Military Justice (UCMJ) and Federal crimes. These types of violations include crimes of violence, domestic violence, adult sexual assault and abusive sexual contact, larceny, theft, crimes against persons, and crimes related to child exploitation and child pornography, including the illegal production, distribution, receipt, and possession of child pornography.

3. Your Affiant has completed a five-month NCIS Special Agent Basic Training Integrated (SABTI) program at the Federal Law Enforcement Training Center in Glynco, GA. These programs provided Your Affiant with instruction regarding death investigations, sex crimes investigations, narcotics investigations, military law, civilian federal law, and other practical issues for investigators. Your Affiant has participated in a number of investigations as a Federal Special Agent. During these investigations, Your Affiant has conducted interviews, interrogations, and other follow-up investigative actions. Prior to becoming a Special Agent with NCIS, Your Affiant was Police Officer and Detective with the Jacksonville Police Department in Jacksonville, NC for over ten years. As a Detective, Your Affiant was assigned to the Federal Bureau of Investigation's (FBI) Coastal Carolina Child Exploitation and Human Trafficking Task Force as a Task Force Officer (TFO). Your Affiant possesses a Bachelor's degree in Criminal Justice through the University of North Carolina at Wilmington (UNCW).

4. This affidavit is based upon the investigative efforts of Your Affiant as well as other NCIS agents and other law enforcement members. Since this affidavit is being submitted for the limited purpose of securing a search warrant, Your Affiant has not included each and every finding from the investigation; rather, Your Affiant has set forth a summary of the investigation to date in order to establish probable cause that evidence, fruits, and instrumentalities of said violations are contained in said premises.

INVESTIGATION FACTS

5. On 18Oct23, Your Affiant was notified by USMC Criminal Investigative Division (CID) Agent Jacob WILLIAMS of a shooting that had just occurred at Barracks HP 255, Room 317, CLNC. The victim of the shooting was identified as LCpl Austin SCHWENK (V/SCHWENK), USMC, 2nd Battalion (2d Bn), 6th Marine Regiment (6th Marines), 2nd Marine Division (2d

MarDiv), CLNC. Agent WILLIAMS further advised the subject of the shooting was identified as Cpl Jesse BOPP (S/BOPP), USMC, 2d Bn, 6th Marines, 2d MarDiv, CLNC. Agent WILLIAMS advised S/BOPP fled the area after the incident. Officers of the Provost Marshals Office attempted to pursue S/BOPP; however, he was unable to be located. Agent WILLIAMS indicated V/SCHWENK succumbed to his wounds, and his time of death was confirmed at 2001 hours on 18Oct23 by Dr. Raymond CUDNIK, Naval Medical Center Camp Lejeune.

6. Your Affiant arrived at HP 255 and conducted an initial interview with Cpl Benjamin HOUSE, USMC, 2d Bn, 6th Marines, 2d MarDiv, CLNC. Cpl HOUSE confirmed he is the roommate of V/SCHWENK, and they both reside at HP 255, Room 317 together. Cpl HOUSE stated S/BOPP had entered Room 317, where he and V/SCHWENK were at. Cpl HOUSE indicated S/BOPP appeared to be intoxicated as a result of consumption of numerous alcoholic beverages. Cpl HOUSE specifically stated he was aware S/BOPP had consumed at least four (4) alcohol beverages. Cpl HOUSE stated S/BOPP "whipped out" a pistol and aimed it at his own head. Cpl HOUSE stated S/BOPP then aimed the pistol toward V/SCHWENK and fired the weapon one (1) time. Cpl HOUSE stated S/BOPP "screamed," dropped the firearm onto the ground, and fled out of the barracks room.

7. Cpl HOUSE stated to Your Affiant that S/BOPP resides directly next door to them, in HP255, Room 319. Cpl HOUSE stated S/BOPP does not have a roommate at this time. In a later interview with NCIS Supervisory Special Agent Joe DiCostanzo, Cpl HOUSE stated S/BOPP has told him that S/BOPP regularly takes anti-anxiety medications.

8. A scene examination was completed by NCISRA Camp Lejeune Major Case Response Team of Barracks HP 255, Room 317, subject to a Permissive Authorization for Search and Seizure (PASS) that was signed by Cpl HOUSE. A Walther PP pistol, Serial Number FDG1442, was located and seized from the barracks room during the scene examination.

9. A black in color 2014 Jeep Cherokee, bearing Wisconsin Registration APL8150, was located in the parking lot immediately adjacent to HP 255. The vehicle was found to be registered to S/BOPP. S/BOPP was previously recorded operating this vehicle on 13Mar23 as part of an unrelated traffic violation for a separate individual (Incident # 13MAR23-24LE-01100-7LMA). A visual examination of the exterior area of the vehicle resulted in observation of a small, black in color, Pelican brand hard case in the rear cargo area. The Pelican hard case was of consistent size to store a pistol or similarly sized objects.

10. Your Affiant is aware that pistols are commonly sold in manufacture boxes. Additionally, it is common that the receipts of the firearm purchase and associated ammunition will be stored with the firearm itself. Pistols are commonly transported in manufacture boxes, holsters, and locking containers such as hard cases.

11. The location of the keys for the 2014 Black in Color Jeep Cherokee, bearing Wisconsin Registration APL8150, are currently unknown. Your Affiant will make reasonable efforts to locate the keys for the vehicle; however, if no keys are unable to be located. Your Affiant, or those tasked by NCIS, will utilize reasonable means to access the vehicle with the intent of causing the least amount of damage.

CONCLUSION

12. Based on the information above, Your Affiant submits probable cause exists to believe evidence of Murder, a violation of Article 118, and Manslaughter, a violation of 119 of the UCMJ, exists in the vehicle as described in Attachment B.

Dated this 19 day of October, 2023.

[redacted]

Signature of Affiant
Special Agent, NCIS

[redacted]

Signature of Person Authorizing Search

Lt Col, USMC, Commanding Officer

Rank, Service, Title

2d Battalion, 6th Marines

Command

ENCLOSURE 6

Vehicle CASS NCIS ROI IA

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION 19OCT23

CONTROL: 18OCT23-CALE-00856-7HMA

S/BOPP, JESSE THOMAS/CPL USMC
M/W/MEE4/S/[redacted]SSN [redacted]/DOB [redacted]/BROOKFIELD, WI

RESULTS OF CASS EXECUTION OF S/BOPP'S JEEP CHEROKEE

1. On 19Oct23, Reporting Agent (RA) and Participating Investigator (PI) Sandy HUTCHENS executed a Command Authorization for Search and Seizure (CASS) on S/BOPP's vehicle. The CASS was authorized and signed by LtCol James ARMSTRONG, USMC, Commanding Officer (CO), 2nd Battalion (2d Bn), 6th Marine Regiment (6th Marines), 2nd Marine Division (2d MarDiv), Camp Lejeune, NC (CLNC), Enclosure (A) pertains. S/BOPP's vehicle was identified as a black in color, 2014 Jeep Cherokee bearing Wisconsin Registration APL-8150.

2. S/BOPP's vehicle was located in the parking lot adjacent to barracks building HP 255, CLNC. RA utilized an Olympus Tough digital camera, S/N BHVA24665, to document S/BOPP's vehicle. A total of 25 photographs were taken. Of those photographs, five (5) photographs were selected and placed onto an NCIS photograph template, Enclosure (B) pertains. A CD-R Disc containing all photographs was appended, Enclosure (C) pertains.

3. The vehicle was unlocked using the key fob located in S/BOPP's barracks, HP 255, Room 319, which was undergoing a separate CASS at the same time, which is documented under a separate cover. A black in color Pelican case, model 1470, with yellow paint on the lid, was located in the rear cargo area of the S/BOPP's vehicle. The container was found unlocked, and it only contained foam padding. The foam padding on the bottom of the case had darker discolored stains. The Pelican case was seized, sealed in a brown paper bag, and documented under Evidence Custody Document (ECD) log number 401-23, and was placed into NCISRA Camp Lejeune, NC Evidence Custody System.

4. PI HUTCHENS drafted a hand drawn sketch of the vehicle. A final sketch was constructed from the rough sketch utilizing Scene PD, which included the location of the seized item, Enclosure (D) pertains.

5. The vehicle was secured and the key fob was left in S/BOPP's barracks room. A copy of the CASS was left in S/BOPP's barrack's room. Additionally, a property receipt was completed for the seized Pelican case, and left with the copy of the CASS, Enclosure (E) pertains.

ENCLOSURE(S)
(A) Command Authorization for Search and Seizure of S/BOPP's Vehicle/19OCT23

WARNING:
THIS DOCUMENT IS THE PROPERTY OF THE NAVAL CRIMINAL INVESTIGATIVE SERVICE
CONTENTS MAY BE DISCLOSED ONLY TO PERSONS WHOSE OFFICIAL DUTIES REQUIRE
ACCESS HERETO. CONTENTS MAY NOT BE DISCLOSED TO THE PARTY(S) CONCERNED
WITHOUT SPECIFIC AUTHORIZATION FROM THE NAVAL CRIMINAL INVESTIGATIVE SERVICE

AE XX

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

CONTROL:18OCT23-CALE-00856-7HMA 19OCT23

(B) (5) NCIS Photograph Templates/19OCT23
(C) CD-R Disc Containing Digital Images of CASS Execution of S/BOPP's Vehicle/19OCT23
(D) ScenePD Sketch Of S/BOPP's Vehicle/19OCT23
(E) Property Receipt/19OCT23

REPORTED BY: JASON GRIESS, Special Agent
OFFICE: RESIDENT AGENCY CAMP LEJEUNE

WARNING:
THIS DOCUMENT IS THE PROPERTY OF THE NAVAL CRIMINAL INVESTIGATIVE SERVICE CONTENTS MAY BE DISCLOSED ONLY TO PERSONS WHOSE OFFICIAL DUTIES REQUIRE ACCESS HERETO. CONTENTS MAY NOT BE DISCLOSED TO THE PARTY(S) CONCERNED WITHOUT SPECIFIC AUTHORIZATION FROM THE NAVAL CRIMINAL INVESTIGATIVE SERVICE

NAVAL CRIMINAL INVESTIGATIVE SERVICE
PHOTOGRAPH FORM



1. OFFICE CODE:		
NCISRA CAMP LEJEUNE, NC		
2. TITLE:	**3. CCN:**	**4. AGENT'S NAME:**
S/BOPP, JESSE THOMAS/CPL USMC	18OCT23-CALE-00856-7HMA	SA J. GRIESS
5. SUMMARY/DESCRIPTION:		**6. PHOTOGRAPHER/ DATE PHOTO TAKEN:**
Overall Digital Image of Rear of S/BOPP's Vehicle		SA J. GRIESS/19OCT23

NCIS 5580/91 (Rev 06-2010) PREVIOUS EDITIONS ARE OBSOLETE

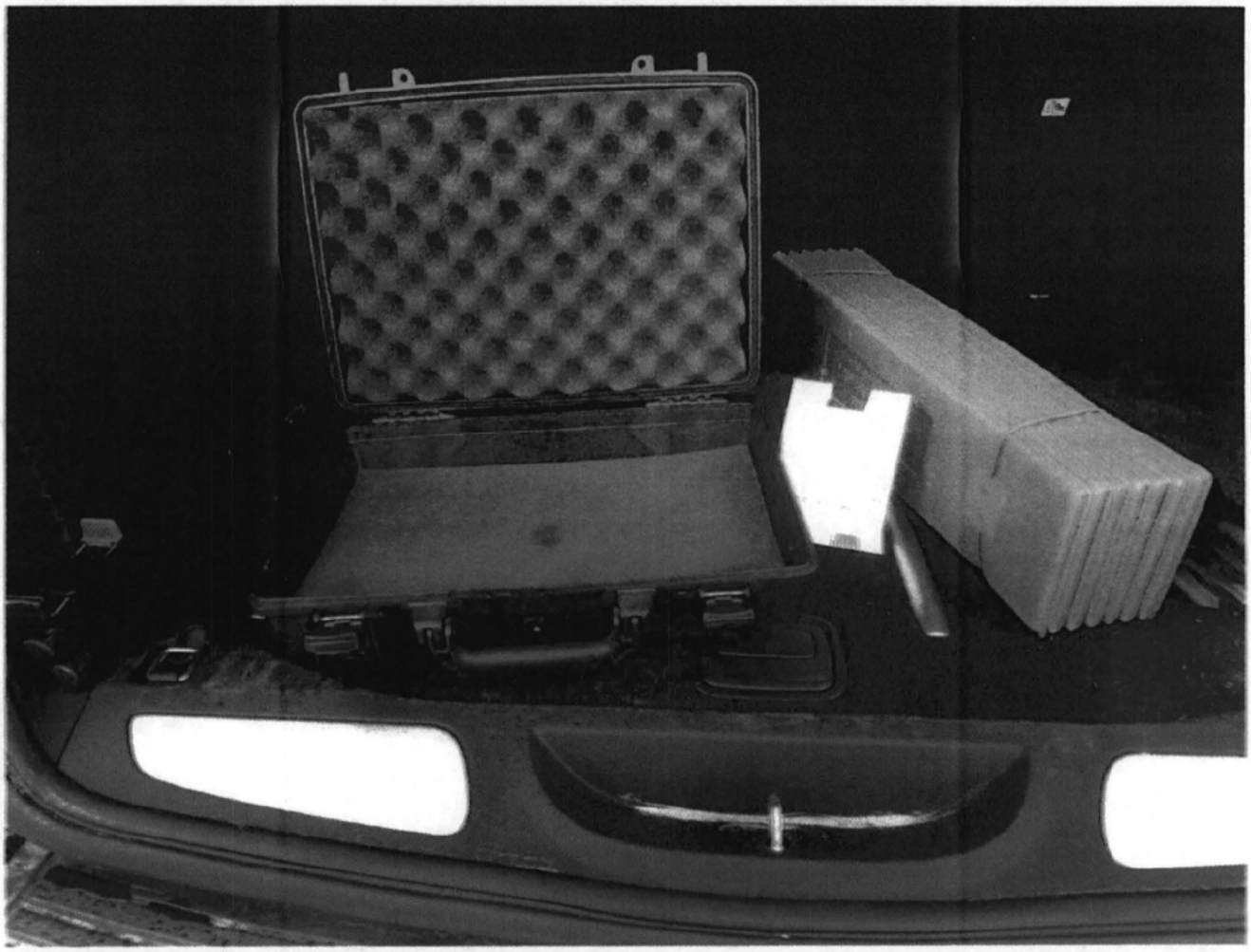
NAVAL CRIMINAL INVESTIGATIVE SERVICE
PHOTOGRAPH FORM



1. OFFICE CODE:		
NCISRA CAMP LEJEUNE, NC		
2. TITLE:	**3. CCN:**	**4. AGENT'S NAME:**
S/BOPP, JESSE THOMAS/CPL USMC	18OCT23-CALE-00856-7HMA	SA J. GRIESS
5. SUMMARY/DESCRIPTION:		**6. PHOTOGRAPHER/ DATE PHOTO TAKEN:**
Overall Digital Image of Rear of S/BOPP's Vehicle with Cargo Area Open		SA J. GRIESS/19OCT23

NCIS 5580/91 (Rev 06-2010) PREVIOUS EDITIONS ARE OBSOLETE

NAVAL CRIMINAL INVESTIGATIVE SERVICE
PHOTOGRAPH FORM



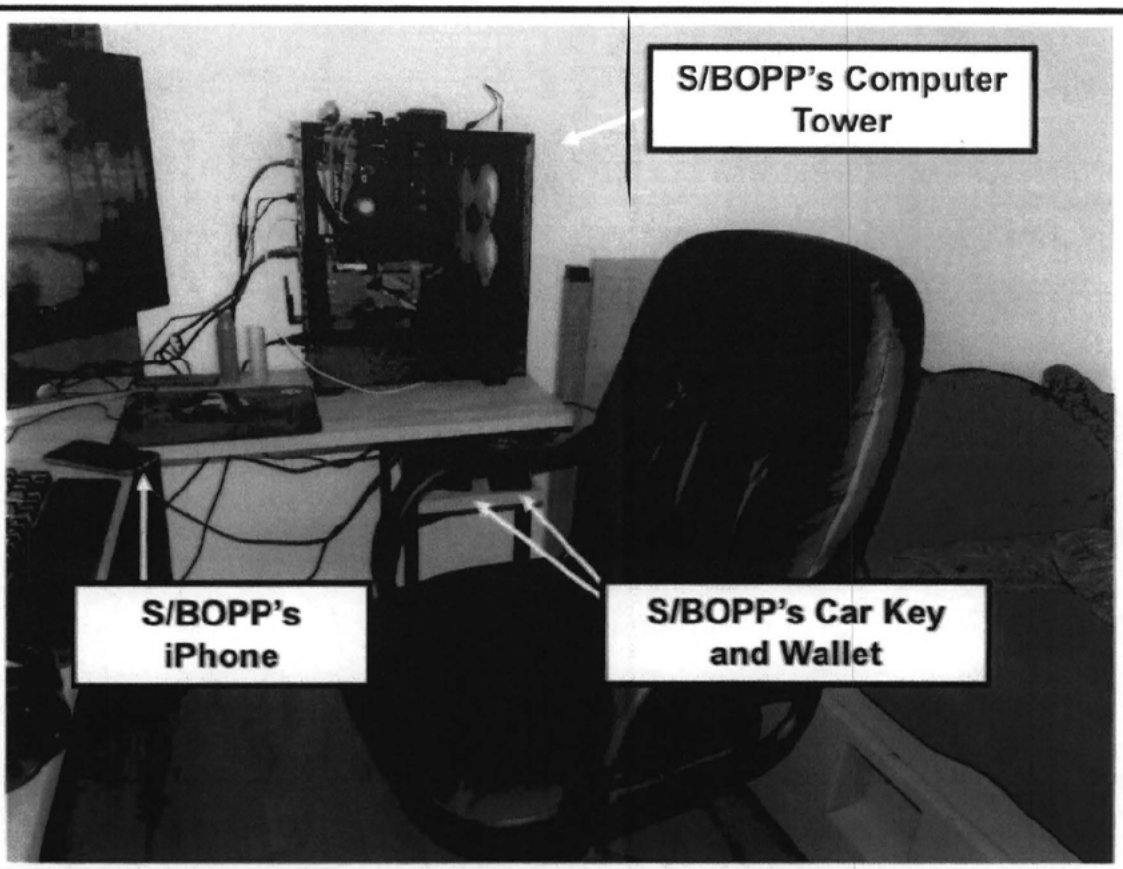
1. OFFICE CODE:		
NCISRA CAMP LEJEUNE, NC		
2. TITLE:	**3. CCN:**	**4. AGENT'S NAME:**
S/BOPP, JESSE THOMAS/CPL USMC	18OCT23-CALE-00856-7HMA	SA J. GRIESS
5. SUMMARY/DESCRIPTION:		**6. PHOTOGRAPHER/ DATE PHOTO TAKEN:**
Overall Digital Image of Open Pelican Hard Case		SA J. GRIESS/19OCT23

NCIS 5580/91 (Rev 06-2010) PREVIOUS EDITIONS ARE OBSOLETE

ENCLOSURE 7

Photos of Keys in Accused's Barracks Room

NAVAL CRIMINAL INVESTIGATIVE SERVICE
PHOTOGRAPH FORM



1. OFFICE CODE:		
NCISRA CAMP LEJEUNE, NC (CLNC)		
2. TITLE:	3. CCN:	4. DATE TAKEN:
S/BOPP, JESSE THOMAS/CPL USMC	18OCT23-CALE-00856-7HMA	19OCT23
5. SUMMARY/DESCRIPTION:		6. PHOTOGRAPHER:
Photograph (DSCN0369.JPG) of the contents (S/BOPP's iPhone, computer tower, car key, and wallet) of the L-shaped desk in S/BOPP's barracks room, Room 319, HP 255; labels inserted.		SA C.ROSA

NCIS 5580/91 (Rev 06-2010) PREVIOUS EDITIONS ARE OBSOLETE

PHOTOGRAPH (26) OF (33)

ENCLOSURE (C)

AE XX

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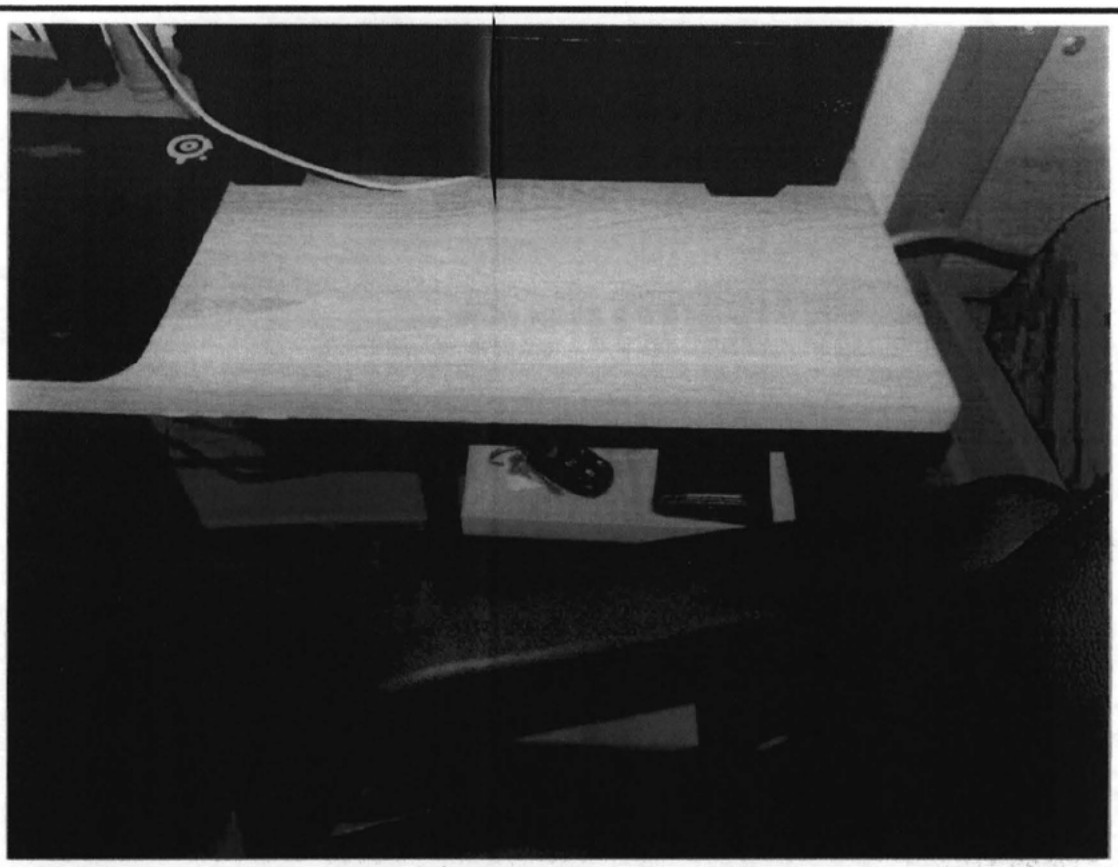
NAVAL CRIMINAL INVESTIGATIVE SERVICE
PHOTOGRAPH FORM



1. OFFICE CODE:		
NCISRA CAMP LEJEUNE, NC (CLNC)		
2. TITLE:	3. CCN:	4. DATE TAKEN:
S/BOPP, JESSE THOMAS/CPL USMC	18OCT23-CALE-00856-7HMA	19OCT23
5. SUMMARY/DESCRIPTION:		6. PHOTOGRAPHER:
Photograph (DSCN0370.JPG) of S/BOPP's car key and wallet on the shelf of the L-shaped desk in S/BOPP's barracks room, Room 319, HP 255.		SA C.ROSA

NCIS 5580/91 (Rev 06-2010) PREVIOUS EDITIONS ARE OBSOLETE

PHOTOGRAPH (27) OF (33)

ENCLOSURE (C)

AE XX

NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES v. JESSE BOPP CORPORAL USMC	DEFENSE MOTION IN LIMINE TO EXCLUDE EVIDENCE LISTED IN GOVERNMENT'S MRE 404(b) NOTICE 30 MAY 2024

SUMMARY

The Government notified Defense of its intent to introduce at trial uncharged misconduct, crimes, and other wrongs under Military Rules of Evidence (M.R.E.) 404(b). The Defense objects to some evidence listed in the notification and moves this Court to exclude such under M.R.E 404(b).

FACTS

1. Corporal Jesse Bopp is charged with one specification of violating Article 92, UCMJ, violation of a lawful general order, by wrongfully possessing, carrying, and discharging a weapon onboard Marine Corps Base Camp Lejeune; one specification of violation of Article 118, UCMJ, Murder- an act inherently dangerous to another; and one specification of violation of Article 119, UCMJ, Involuntary Manslaughter, culpable negligence.
2. On 15 May 2024, the Government provided Defense with notice of its intent to admit evidence under M.R.E 404(b). [Encl (A)]
3. Defense objects to portions of the notified M.R.E. 404(b) evidence.

BURDEN OF PROOF

Pursuant to R.C.M. 905(c), the burden of proof is a preponderance of the evidence standard and it rests on the Government as the moving party.

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LAW

M.R.E. 404(b)

a. M.R.E. 404(b) only allows evidence of uncharged misconduct for limited purposes, and not to prove propensity

The military rules of evidence limit the admission of evidence related to uncharged misconduct at court-martial. Specifically, evidence of uncharged misconduct cannot be used to show propensity: "Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character." M.R.E. 404(b)(1). However, the rules provide some limited exceptions for admissibility including "motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident." M.R.E. 404(b)(2). That evidence must be "offered for a purpose other than to show an accused's predisposition to commit an offense." *United States v. Tanksley*, 54 M.J. 169, 175 (C.A.A.F. Sept. 25, 2000).

b. The *Reynolds* three-part test must be satisfied in order to admit evidence of uncharged offenses

When considering the issue of admissibility of uncharged offenses, the court in *United States v. Reynolds* laid out a three part test that must be satisfied:

(1) Does the evidence reasonably support a finding by the court members that the appellant committed prior crimes, wrongs or acts?

(2) What "fact . . . of consequence" is made more or less probable by the existence of this evidence?

(3) Is the "probative value . . . substantially outweighed by the danger of unfair prejudice"?

Reynolds, 29 M.J. at 109. If the evidence fails on any of these three prongs, it is deemed inadmissible. *Id.*

The first prong of the test requires that "the factfinder could reasonably find by a preponderance of the evidence that the misconduct occurred." *United States v. Hays*, 62 M.J. 158, 164 (C.A.A.F. Sept. 30, 2005). This is further understood to require the judge to determine whether "there is sufficient evidence for a reasonable court member to believe that the accused in fact committed the extrinsic offense." *United States v. Mirandes-Gonzalez*, 26 M.J. 411, 414 (CMA 1988).

The second prong of *Reynolds* derives from the Supreme Court's conclusion that "the threshold inquiry a court must make before admitting similar acts evidence under Rule 404(b) is whether that evidence is probative of a material issue other than character." *United States v. McDonald*, 59 M.J. 426, 429 (C.A.A.F. May 5, 2004) quoting *Huddleston v. United States*, 485 U.S. 681, 686, 99 L. Ed. 2d 771, 108 S. Ct. 1496 (1988). This is a fact based inquiry into the circumstances of the uncharged misconduct and a determination must be made if there is a relevant fact of consequence made more likely by the introduction of this evidence.

The third prong requires that "the evidence is legally, as well as logically, relevant." *United States v. McDonald*, 59 M.J. 426, 429 (C.A.A.F. May 5, 2004). This third prong is based in the demands of 403: "the evidence must satisfy the balancing required by Mil. R. Evid. 403, i.e., its probative value must not be 'substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the members, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.'" *United States v. Matthews*, 53 M.J. 465, 469 (C.A.A.F. Aug. 31, 2000) quoting *United States v. Reynolds*, at 109 (CMA 1989).

The 403 balancing required in the third prong has been further detailed by CAAF for how courts are to administer the test. In *Berry*, CAAF articulated a 403 balancing test that instructs the judge to consider the following factors: (1) the strength of the proof of the prior act; (2) the probative weight of the evidence; (3) the potential to present less prejudicial evidence; (4) the possible distraction of the fact-finder; (5) the time needed to prove the prior conduct; (6) the temporal proximity of the prior event; the frequency of the acts; the presence of any intervening circumstances; and the relationship between the parties. *United States v. Berry*, 61 M.J. 91, 95 (C.A.A.F. May 10, 2005).

Notably, CAAF specifically noted that a judge's failure to properly administer the balancing test and articulate the reasoning on the record would result in more scrutiny from the appellate courts. *Id* at 96.

c. The Government must provide a valid, specific purpose, not propensity, for admitting evidence of uncharged offenses

The Government is required to declare a purpose for the introduction of the character evidence besides propensity, and to do so with some specificity. The Government must, "state exactly what issue it is trying to prove in order to see whether the evidence is probative, how probative it is, and whether it should be admitted in light of other evidence in the case and the ever present danger of prejudice. *United States v. Ferguson*, 28 M.J. 104, 108-109 (C.M.A. May 8, 1989).

Therefore, broad inclusion for every possible purpose for admitting character evidence under 404(b) should be avoided in favor of narrowly tailoring and logically explaining what act the Government is trying to admit and for what specific purpose. Courts have consistently disfavored "broad talismanic incantations of words such as intent, plan, or modus operandi, to secure the admission of evidence of other crimes or acts by an accused at a court-martial under Mil.R.Evid. 404(b)." *United States v. Brannan*, 18 M.J. 181, 185 (C.M.A. July 2, 1984).

ARGUMENT

The Defense responds to the following notified MRE 404(b) evidence.

A. Accused's AA&E package. BS (856-865). 404b Purpose: Lack of accident, knowledge, and in rebuttal. This documentation is used to qualify a Marine to work in the armory and safeguard weapons and ammunition. It shows that the Accused was familiar with safe weapons handling, was qualified to handle weapons safely, and acknowledged that he was required to act with "mature, stable judgment" on and off-duty in his handling of firearms.

B. Accused's Cabela's Firearm Safety Form. BS (1126). 404b Purpose: Lack of accident, knowledge, and in rebuttal. This is documentation is used to ensure that the Accused was informed of proper safety protocols regarding use of a firearm. It shows that the Accused acknowledged the fundamentals of weapon safety including to not use alcohol at any time while handling a firearm, to never point a weapon at anything he does not intend to shoot, and to keep his finger off of the trigger until he was ready to fire.

C. Accused's Use of Force Acknowledgement. BS (871-873). 404b Purpose: Lack of accident, knowledge, and in rebuttal. This documentation is used to qualify a Marine to work in the armory and safeguard weapons and ammunition. It shows that the Accused was aware that he had a duty to "not point any firearm at any person."

D. Accused's Armory Statement of Understanding. BS (870). 404b Purpose: Lack of accident, knowledge, and in rebuttal. This documentation is used to show the accused's acceptance of responsibility for safety and security of arms and ammunition and adherence to the base order. It shows that the Accused acknowledged that he was required to follow and enforce the orders regulating his duty to involving the safety, security, and accountability of arms and ammunition.

It is Defense's position that items A-D in the Government's notice are not evidence under MRE 404(b), but rather is just evidence. Defense therefore does not have an objection to the admission of this evidence under 404(b), but instead objects to the Government receiving an instruction under 404(b) for their listed purposes (i.e. lack of accident and knowledge).

E. Accused running away from the scene. BS (374,468). 404b Purpose: Consciousness of guilt and absence of mistake. This information demonstrates the Accused knew that the act was unlawful and he fled the scene of the crime vice rendering aid to the victim. This is evidence that is highly probative the killing was both unlawful and the accused was aware of that.

Understanding this is notified under 404(b), Defense concedes that this conduct is res gestae of the charged offense. As such, Defense has no objection to the evidence under 404(b) but objects to the Government receiving any 404(b) instruction for this evidence.

F. Accused's statement to LCpl Aiden Dickinson that, "Every day I get closer to EAOSing I'm itching to kill someone," or words to that effect. BS (727). 404b Purpose: Absence of mistake, lack of accident, and intent to pull the trigger on the firearm. This statement of the Accused directly indicates his knowledge of the natural and probable consequences of the loaded firearm he was in possession of. While the Government believes this information is res gestae, we are including it in the 404(b) notice to prevent any misunderstanding or confusion and to give the Defense an opportunity to litigate the issue if desired in accordance with the TMO.

Defense objects to this evidence under the second and third prongs of the *Reynolds* test. Under the second prong of *Reynolds*, the Government must show that this evidence "is probative of a material issue other than character." *United States v. McDonald*, 59 M.J. 426. Here, what the Government is presenting is evidence of Cpl Bopp's dark humor. In no way does this evidence show "knowledge of the natural and probable consequences of the loaded firearm he was in the possession of." Instead, this is merely character evidence of Cpl Bopp's sense of humor. Additionally, given the charged offenses, this

piece of evidence does not make a fact of consequence more or less likely. Cpl Bopp is not charged with premediated murder or murder with the intent to kill or inflict great bodily harm under Article 118 (1) and (2) under the UCMJ. Instead, Cpl Bopp is charged with Article 118 (3), where the government must prove Cpl Bopp engaged in an act which is inherently dangerous to another and Article 119—involuntary manslaughter – culpable negligence, where the Government must prove a degree of carelessness greater than simple negligence. That Cpl Bopp has a dark sense of humor common amongst most Marines, does not make it more likely that Cpl Bopp acted in an inherently dangerous or culpably negligent manner. Assuming in arguendo the Court finds Cpl Bopp's character for dark humor has probative value beyond just character evidence, joking about having an intent to kill is not probative of any of the charged offenses.

Additionally, Cpl Bopp's dark humor fails the third prong of the *Reynold's* test. Assuming in arguendo that having a dark sense of humor is somehow probative of the charged offenses, any such probative value is outweighed by the prejudicial impact it will have on the members. First, when turning to the *Berry* factors, the probative weight of this evidence, if any, is slim. Again, given the intent elements the Government must prove in this case, joking about having an intent to kill does not actually prove any of the elements. Instead, this serves as a distraction to the factfinder who might impermissibly confuse Cpl Bopp's character for dark humor as evidence of intent of a crime more egregious than that which is actually charged. As such, the prejudicial impact of this evidence outweighs any potential probative value and must thus be excluded.

G. Accused's handling of firearms per Corporal Taren Caraveau. BS (733 – 734). 404b Purpose: Knowledge, absence of mistake, lack of accident, and in rebuttal. This information is directly related to the Accused's knowledge of weapons handling procedures, the reason for safe handling, and the natural and probable consequences of mishandling firearms. It also is in rebuttal to any claim the accused was not aware of how to handle the weapon.

Similar to items A-D, it is Defense's position that item G in the Government's notice are not evidence under MRE 404(b), but rather is just evidence. Defense therefore does not have an objection to

the admission of this evidence under 404(b), but instead objects to the Government receiving an instruction under 404(b) for their listed purposes.

H. Accused's handling of firearms per Sergeant Tyler Rysavy and Lance Corporal Kristian RojasMiller. BS (833-834; 737-738). 404b Purpose: Knowledge, absence of mistake, lack of accident, and in rebuttal. These Marines describe the Accused as being familiar with the weapons and optics. Sgt Rysavy also describes knowing the accused and that while he would drink, he did not know of him "blacking out." These facts may become important should the Accused take the stand and attempt to articulate he was so drunk he does not know what happened.

Similar to items A-D and G, it is Defense's position that Cpl Bopp's proper handling of weapons is not evidence under MRE 404(b), but rather is just evidence. Defense therefore does not have an objection to the admission of this evidence, but instead objects to the Government receiving an instruction under 404(b) for their listed purposes.

Defense, however, objects to the Government introducing Sgt Rysavy's opinion about whether or not Cpl Bopp "blacks out" while drinking alcohol. Defense objects to Sgt Rysavy opining to such under speculation. Sgt Rysavy has no personal knowledge or expertise that could form the basis of this opinion and it is therefore not relevant or admissible.

I. Accused's negligently handling of the weapon per Lance Corporal Dickinson and Lance Corporal Brennan Metcalf. BS (719-727). 404b Purpose: Intent, knowledge, absence of mistake, and lack of accident. This information demonstrates the intent to load the weapon into "condition one," the knowledge shortly before pointing the weapon at the Victim and pulling the trigger that the weapon was not only loaded, but in "condition one," and that it was not an accident. While the Government believes this information is res gestae, we are including it in the 404(b) notice to prevent any misunderstanding or confusion and to give the Defense an opportunity to litigate the issue if desired in accordance with the TMO.

Understanding this is notified under 404(b), Defense concedes that this conduct is res gestae of the charged offense. As such, Defense has no objection to the evidence under 404(b) but objects to the Government receiving any 404(b) instruction for this evidence.

RELIEF

As the proponent of the evidence the Government has the burden to establish its admissibility. Here, for item F, the Government has failed to do so, and the Defense respectfully asks the court to

exclude such evidence because of so. For all other listed items, while the Government has notified its intent to introduce such evidence under MRE 404(b), Defense disagrees that such is 404(b) evidence. While Defense does not object under 404(b) to such evidence, Defense does object to the Government receiving any instruction under 404(b) for evidence that is not 404(b) evidence.

EVIDENCE

In support of its motion the Defense offers the following:

1. Encl A - Government's 404(b) Notice
2. Encl B – Section of NCIS ROI the Government references in their MRE 404(b) notice
3. Defense respectfully requests LCpl Aiden Dickenson be produced as a witness.

ORAL ARGUMENT

The Defense requests oral argument should this motion be opposed.

[redacted]

J. L. MCLAUGHLIN
Captain, USMC
Detailed Defense Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of this motion was served electronically on Trial Counsel and the Court on 30 May 2024.

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[redacted]

J. L. MCLAUGHLIN
Captain, USMC
Detailed Defense Counsel

AE XXI
Pg 9 of 9

DEPARTMENT OF THE NAVY
MARINE CORPS OFFICE OF SPECIAL TRIAL COUNSEL – MCB CAMP LEJEUNE
MARINE CORPS BASE CAMP LEJEUNE
PSC BOX 20010
CAMP LEJEUNE, NC 28542-0010

IN REPLY REFER TO:
5811
OSTC/jds
15 May 24

From: Special Trial Counsel
To: Defense Counsel

Subj: NOTICE OF INTENT TO PRESENT M.R.E. 404(b) EVIDENCE ICO UNITED STATES V. CORPORAL JESSE T. BOPP, USMC

Ref: (a) M.R.E. 404b, Manual for Courts-Martial (2024 ed.)

1. The Government hereby provides notice of its intent to use the following evidence of other crimes, wrongs, and other acts during its case-in-chief or as rebuttal evidence.

A. Accused's AA&E package. BS (856-865). **404b Purpose**: Lack of accident, knowledge, and in rebuttal. This documentation is used to qualify a Marine to work in the armory and safeguard weapons and ammunition. It shows that the Accused was familiar with safe weapons handling, was qualified to handle weapons safely, and acknowledged that he was required to act with "mature, stable judgment" on and off-duty in his handling of firearms.

B. Accused's Cabela's Firearm Safety Form. BS (1126). **404b Purpose**: Lack of accident, knowledge, and in rebuttal. This is documentation is used to ensure that the Accused was informed of proper safety protocols regarding use of a firearm. It shows that the Accused acknowledged the fundamentals of weapon safety including to not use aclohol at any time while handling a firearm, to never point a weapon at anything he does not intend to shoot, and to keep his finger off of the trigger until he was ready to fire.

C. Accused's Use of Force Acknowledgement. BS (871-873). **404b Purpose**: Lack of accident, knowledge, and in rebuttal. This documentation is used to qualify a Marine to work in the armory and safeguard weapons and ammunition. It shows that the Accused was aware that he had a duty to "not point any firearm at any person."

D. Accused's Armory Statement of Understanding. BS (870). **404b Purpose**: Lack of accident, knowledge, and in rebuttal. This documentation is used to show the accused's acceptance of responsibility for safety and security of arms and ammunition and adherence to the base order. It shows that the Accused acknowledged that he was required to follow and enforce the orders regulating his duty to involving the safety, security, and accountability of arms and ammunition.

E. Accused running away from the scene. BS (374,468). **404b Purpose**: Consciousness of guilt and absence of mistake. This information demonstates the Accused knew that the act was unlawful and he fled the scene of the crime vice rendering aid to the victim. This is evidence that is highly probative the killing was both unlawful and the accused was aware of that.

F. Accused's statement to LCpl Aiden Dickinson that, "Every day I get closer to EAOSing I'm itching to kill someone," or words to that effect. BS (727). **404b Purpose:** Absence of mistake, lack of accident, and intent to pull the trigger on the firearm. This statement of the Accused directly indicates his knowledge of the natural and probable consequences of the loaded firearm he was in posession of. While the Government believes this information is res gestae, we are including it in the 404(b) notice to prevent any misunderstanding or confusion and to give the Defense an opportunity to litigate the issue if desired in accordance with the TMO.

G. Accused's handling of firearms per Corporal Taren Caraveau. BS (733 – 734). **404b Purpose:** Knowledge, absence of mistake, lack of accident, and in rebuttal. This information is directly related to the Accused's knowledge of weapons handling procedures, the reason for safe handling, and the natural and probable consequences of mishandling firearms. It also is in rebuttal to any claim the accused was not aware of how to handle the weapon.

H. Accused's handling of firearms per Sergeant Tyler Rysavy and Lance Corporal Kristian RojasMiller. BS (833-834; 737-738). **404b Purpose:** Knowledge, absence of mistake, lack of accident, and in rebuttal. These Marines describe the Accused as being familiar with the weapons and optics. Sgt Rysavy also describes knowing the accused and that while he would drink, he did not know of him "blacking out." These facts may become important should the Accused take the stand and attempt to articulate he was so drunk he does not know what happened.

I. Accused's negligently handling of the weapon per Lance Corporal Dickinson and Lance Corporal Brennan Metcalf. BS (719-727). **404b Purpose:** Intent, knowledge, absence of mistake, and lack of accident. This information demonstrates the intent to load the weapon into "condition one," the knowledge shortly before pointing the weapon at the Victim and pulling the trigger that the weapon was not only loaded, but in "condition one," and that it was not an accident. While the Government believes this information is res gestae, we are including it in the 404(b) notice to prevent any misunderstanding or confusion and to give the Defense an opportunity to litigate the issue if desired in accordance with the TMO.

Subj: NOTICE OF INTENT TO PRESENT M.R.E. 404(b) EVIDENCE ICO UNITED STATES V. CORPORAL JESSE T. BOPP, USMC

2. The point of contact for this case is Major Jason D. Samuel at jason.d.samuel.mil@usmc.mil.

[redacted]

J. D. SAMUEL
Major, U.S. Marine Corps
Special Trial Counsel

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION 25OCT23

CONTROL: 18OCT23-CALE-00856-7HMA

S/BOPP, JESSE THOMAS/CPL USMC
M/W/MEE4/S/[redacted]/14APR00/BROOKFIELD, WI

RESULTS OF INTERVIEW OF LCPL AIDEN DICKINSON, USMC

1. On 25Oct23, Reporting Agent (RA) and Participating Agent (PA) Tyler ENNIS interviewed LCpl Aiden DICKINSON, USMC, 2nd Battalion, 6th Marine Regiment (2/6), 2nd Marine Division (2D MARDIV), Camp Lejeune, NC (CLNC), regarding his knowledge of the captioned investigation. As backyard, S/BOPP was in LCpl DICKINSON's barracks room HP 255 room 321, prior to V/SCHWENK being shot. The following is a summary of the interview and is not necessarily described in the order it was discussed. The interview was audio and video recorded in its entirety. Enclosure (A) pertains. For a verbatim account of the interview, refer to Enclosure (A).

2. LCpl DICKINSON was unable to recall when he returned to his barracks after work. Once he returned, he showered, then started playing video games (Spiderman) and watching Netflix on his phone, with his right earbud in. S/BOPP stopped by to talk to LCpl DICKINSON and LCpl Brennan METCALF, USMC, 2/6, 2D MARDIV,CLNC. LCpl DICKINSON explained S/BOPP coming over was a normal occurrence since he lived nearby. LCpl DICKINSON advised he believed S/BOPP came over approximately 1900 and left about 1945. LCpl DICKINSON described S/BOPP as "clearly drunk", but not the "drunkest" he has ever seen S/BOPP. S/BOPP had a beatbox (an alcoholic drink) in his hand and stated he was approximately "three in." LCpl DICKINSON advised S/BOPP could drink a lot and it was usual for S/BOPP to be intoxicated any day of the week. LCpl DICKINSON detailed S/BOPP was slurring his words; however, could stand and was coherent during the conversation. S/BOPP was joyous and joking around.

3. LCpl DICKINSON reported S/BOPP was wearing a sweatshirt and underwear. LCpl DICKINSON stated S/BOPP had the firearm with him when he walked in and only left to get Twisted Teas. LCpl DICKINSON believed he had the firearm tucked under his armpit when he walked in. LCpl DICKINSON stated S/BOPP showed them the firearm, twisted it around, grabbed the firearm magazine, showed LCpl DICKINSON and LCpl METCALF the magazine, S/BOPP inserted the magazine in the firearm, and then pointed the firearm at the wall. LCpl DICKINSON told S/BOPP "chill out" when he pointed it at the wall, because it was close to where LCpl DICKINSON was located and LCpl DICKINSON moved out of the way. After S/BOPP pointed the firearm at the wall he cleared it. S/BOPP handed the firearm to LCpl METCALF, who then handed it to LCpl DICKINSON, and then back to S/BOPP. When LCpl DICKINSON had the firearm the magazine was not inserted, the slide was forward, and the chamber was empty; LCpl DICKINSON reported he checked the condition of the weapon when he had it. LCpl DICKINSON stated S/BOPP might have raised the firearm more than

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EXHIBIT (54)

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

just the one time at the wall; however, that was the only time LCpl DICKINSON was concerned and not feeling safe around S/BOPP. LCpl DICKINSON stated S/BOPP retrieved the magazine from his sweatshirt pocket or the side of his underwear; LCpl DICKINSON was not sure. The magazine had ammunition in it. LCpl DICKINSON was unaware if S/BOPP had any additional ammunition. LCpl DICKINSON did not observe S/BOPP manipulate any ammunition other than when he inserted the magazine that had ammunition it in.

4. LCpl DICKINSON reported while S/BOPP was in his room he was distracted playing his game and periodically would turn towards S/BOPP and LCpl METCALF and engage in their conversation. LCpl DICKINSON could hear them with his left ear, since he only had one earbud in. When LCpl DICKINSON was playing his game, S/BOPP and LCpl METCALF were off to his side. LCpl DICKINSON was paying attention to the conversation when S/BOPP put the magazine in the firearm, however, after that LCpl DICKINSON became annoyed at S/BOPP and returned to his video game. LCpl DICKINSON stated S/BOPP "annoys" him when S/BOPP is intoxicated. According to LCpl DICKINSON, S/BOPP left when he was told they were ready for bed and once S/BOPP left, LCpl DICKINSON returned to playing video game. LCpl DICKINSON assumed the firearm was clear when S/BOPP left his room, because he observed him clear it after S/BOPP pointed it at the wall. However, LCpl DICKINSON returned to playing his video game after S/BOPP cleared the firearm, and did not pay much attention to S/BOPP before he left. S/BOPP had the firearm in his hand when he left. S/BOPP did not say where he was going. LCpl DICKINSON admitted it was possible he did not see S/BOPP's movements the whole time and missed parts of the conversation.

5. LCpl DICKINSON advised Cpl Benjamin HOUSE, USMC, 2/6, 2D MARDIV, CLNC, stopped by to ask about an air fryer, but did not stay long. LCpl DICKINSON relayed Cpl HOUSE already knew about S/BOPP's firearm, that he had recently purchased it, and Cpl HOUSE did not ask about the firearm. According to LCpl DICKINSON, Cpl HOUSE left and S/BOPP stayed in the room and talked to LCpl DICKINSON and LCpl METCALF.

6. Approximately five to ten minutes after S/BOPP left, Cpl HOUSE came in and was frantic and told LCpl DICKINSON and LCpl METCALF "BOPP just shot SCHWENK." LCpl METCALF left the room, but told LCpl DICKINSON to stay. LCpl DICKINSON initially thought it was a joke; however, he eventually left the room and spoke with LCpl Elijah DILLAY, USMC, 2/6, 2D MARDIV, CLNC, which was when he realized it was not a joke. LCpl DICKINSON waited for the Officer of the Day (OOD) (NFI) and the duty from the barracks (NFI) to arrive. The duty from the barracks instructed LCpl DICKINSON to look out for Provost Marshal's Office (PMO) and ambulance. LCpl DICKINSON saw the ambulance down the road, so he went to them and directed them to the correct location. LCpl DICKINSON stated he informed PMO he had touched the weapon prior to the shooting.

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

CONTROL:18OCT23-CALE-00856-7HMA **25OCT23**

7. The interview LCpl DICKINSON advised "he" made a joke stating "every day I get closer to EAOSing I'm itching to kill someone." LCpl DICKINSON advised this was a normal type of joke for "him" and "he" has a dark humor. It should be noted, on 17Nov23, RA contacted LCpl DICKINSON to clarify who "he" was; LCpl DICKINSON advised "he" was S/BOPP.

8. LCpl DICKINSON reported he never observed the firearm with ammunition in the chamber. LCpl DICKINSON did not know where S/BOPP was keeping the firearm, but he was not surprised he had one. LCpl DICKINSON knows individuals (NFI) have weapons in the barracks even though they are not suppose to.

9. LCpl DICKINSON did not observe S/BOPP mishandle weapons at work. LCpl DICKINSON advised S/BOPP handled more optics than weapons.

10. Subsequent to the interview LCpl DICKINSON signed a Permissive Authorization for Search and Seizure for a sample of his deoxyribonucleic acid (DNA) and major case prints. Enclosure (B) pertains. LCpl DICKINSON's DNA was collected via a buccal sample utilizing two Cap-Shure swabs. LCpl DICKINSON's major case prints were collected by RA. Both his DNA and major case prints were submitted to NCISRA Camp Lejeune Evidence under the Log Number 409-23.

ENCLOSURE(S)
(A) DVD Containing Interview of LCpl DICKINSON/25OCT23
(B) PASS for LCpl DICKINSON's DNA and Major Case Prints/25OCT23

REPORTED BY: MEGAN ROBBINS, Special Agent
OFFICE: RESIDENT AGENCY CAMP LEJEUNE

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NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT

UNITED STATES v. JESSE T. BOPP Corporal U.S. Marine Corps	GENERAL COURT-MARTIAL VICTIMS' LEGAL COUNSEL NOTICE OF APPEARANCE Date: 1 May 2024

1. Pursuant to Rule 36.1 of the Uniform Rules of Practice Before Navy-Marine Corps Courts-Martial (Uniform Rules) and Rule 36.1a of the Eastern Judicial Circuit Rules of Practice (EJC Rules), I, Captain Christopher C. Kim, USMC, hereby provide notice to the Circuit Military Judge of my appearance on behalf of Ms. Kassandra Christison. My office address, phone number, and e-mail address are: 403 L Street, Camp Lejeune, North Carolina; 910-915-9782; christopher.c.kim@usmc.mil.

2. I have been detailed as the Victims' Legal Counsel for the above named victim in this case by the Regional Victims' Legal Counsel East, Major Kanika Hill, USMC. I am qualified and certified under Article 27(b) and sworn under Article 42(a) of the Uniform Code of Military Justice. I have not acted in any disqualifying manner.

3. I am aware of the standards of professional conduct required of counsel practicing in Navy-Marine Corps courts-martial as contained in JAG Instruction 5803.1E. I certify that I am not now, nor have I ever been, de-certified or suspended from practice in Navy-Marine Corps courts-martial by the Judge Advocate General of the Navy.

4. I have reviewed and am familiar with the Uniform Rules of Practice for the Navy-Marine Corps Trial Judiciary and the Eastern Judicial Circuit rules of Practice.

5. My client has limited standing as a named victim in this court-martial, and she reserves the right to exercise those rights through counsel as needed.

[redacted]
C. C. KIM
Captain, U.S. Marine Corps
Victims' Legal Counsel

****

Certificate of Service

I hereby attest that a copy of the foregoing notice of appearance was served on the court and counsel on 1 May 2024.

[redacted]
C. C. KIM
Captain, U.S. Marine Corps
Victims' Legal Counsel

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Pg 2 of 2

NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES v. JESSE T. BOPP CORPORAL U.S. MARINE CORPS	VICTIMS' LEGAL COUNSEL NOTICE OF APPEARANCE ON BEHALF OF MR. ROBERT SCHWENK, JR. 1 May 2024

1. Pursuant to Rule 36 of the Uniform Rules of Practice Before Navy-Marine Corps Courts- Martial (Uniform Rules) I, Captain Stefano J. Cavallaro, USMC, hereby provide notice to the Circuit Military Judge of my appearance on behalf of Mr. Robert Schwenk, Jr. My office address, phone number, and e-mail address are:

   Room 117, Building 130176T
   Camp Pendleton, CA 92055
   424-666-7514
   stefano.cavallaro@usmc.mil

2. I have been detailed as the Victims' Legal Counsel for the above named victim in this case by the Regional Victims' Legal Counsel, Major Angel Alfaro. I am qualified and certified under Article 27(b) and sworn under Article 42(a) of the Uniform Code of Military Justice. I am an attorney and licensed to practice law in the state of Florida. I am a member in good standing of the Florida Bar, the Bar of the Navy-Marine Corps Court of Criminal Appeals, and the Bar of the Court of Appeals for the Armed Forces. I have not acted in any disqualifying manner.

3. I am aware of the standards of professional conduct required of counsel practicing in Navy-Marine Corps courts-martial as contained in JAG Instruction 5803.1E. I certify that I am not now, nor have I ever been, de-certified or suspended from practice in Navy-Marine Corps courts-martial by the Judge Advocate General of the Navy.

4. I have reviewed and am familiar with the Uniform Rules of Practice for the Navy-Marine Corps Trial Judiciary as well as the Eastern and Western Judicial Circuit Rules of Practice.

5. My client has limited standing as a named victim in this court-martial, and reserves the right to exercise those rights through counsel as needed.

6. Respectfully submitted this 1st day of May 2024.

[redacted]
S. J. CAVALLARO

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Pg 1 of 1

NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT

UNITED STATES v. JESSE T. BOPP Corporal U.S. Marine Corps	GENERAL COURT-MARTIAL CIVILIAN VICTIMS' LEGAL COUNSEL NOTICE OF APPEARANCE Date: 1 May 2024

1. Consistent with Rule 36.1 of the Uniform Rules of Practice Before Navy-Marine Corps Courts- Martial (Uniform Rules) and Rule 36.1a of the Eastern Judicial Circuit Rules of Practice (EJC Rules), I, Chasity A. Fair, hereby provide notice to the Circuit Military Judge of my appearance on behalf of Ms. Kassandra Christison.

2. My office address, phone number, and e-mail address are: Arnold & Porter Kaye Scholer LLP, 601 Massachusetts Ave., NW Washington D.C. 20001; (202) 942-5910 (office phone); and Chasity.Fair@arnoldporter.com.

3. I am admitted to practice law and am currently in good standing in the District of Columbia.

4. I have reviewed and am familiar with the Uniform Rules of Practice for the Navy-Marine Corps Trial Judiciary and the Eastern Judicial Circuit rules of Practice.

5. I am aware of the standards of professional conduct set forth in JAG Instruction 5803.1E. I certify that I am not now, nor have I ever been, de-certified or suspended from practice in Navy-Marine Corps courts- martial by the Judge Advocate General of the Navy.

6. Respectfully submitted this 1st day of May 2024.

[redacted]

Chasity A. Fair
Arnold & Porter Kaye Scholer LLP
Chasity.Fair@arnoldporter.com
601 Massachusetts Ave., NW
Washington, DC 20001-3743
(202) 942-5910 (office phone)

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Appearance was served upon the Military Judge, Trial Counsel, and Defense Counsel on 1 May 2024.

[redacted]

Chasity A. Fair
Arnold & Porter Kaye Scholer LLP
Chasity.Fair@arnoldporter.com
601 Massachusetts Ave., NW
Washington, DC 20001-3743
(202) 942-5910 (office phone)

NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT

UNITED STATES v. JESSE T. BOPP Corporal U.S. Marine Corps	GENERAL COURT-MARTIAL CIVILIAN VICTIMS' LEGAL COUNSEL NOTICE OF APPEARANCE Date: 1 May 2024

1. Consistent with Rule 36.1 of the Uniform Rules of Practice Before Navy-Marine Corps Courts- Martial (Uniform Rules) and Rule 36.1a of the Eastern Judicial Circuit Rules of Practice (EJC Rules), I, Ryan D. Guilds, hereby provide notice to the Circuit Military Judge of my appearance on behalf of Ms. Kassandra Christison.

2. My office address, phone number, and e-mail address are: Arnold & Porter Kaye Scholer LLP, 601 Massachusetts Ave., NW Washington D.C. 20001; (202) 942-6188 (office phone); and Ryan.Guilds@arnoldporter.com.

3. I am admitted to practice law and am currently in good standing in the following jurisdictions: District of Columbia, U.S. Court of Appeals for the Third Circuit, U.S. Court of Appeals for the Fourth Circuit, U.S. District Court for the District of Columbia, Supreme Court of Pennsylvania, and the U.S. Court of Appeals for the Armed Forces.

4. I have reviewed and am familiar with the Uniform Rules of Practice for the Navy-Marine Corps Trial Judiciary and the Eastern Judicial Circuit rules of Practice.

5. I am aware of the standards of professional conduct set forth in JAG Instruction 5803.1E. I certify that I am not now, nor have I ever been, de-certified or suspended from practice in Navy-Marine Corps courts- martial by the Judge Advocate General of the Navy.

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6. Respectfully submitted this 1st day of May 2024.

[redacted]

Ryan D. Guilds
Arnold & Porter Kaye Scholer LLP
Ryan.Guilds@arnoldporter.com
601 Massachusetts Ave., NW
Washington, DC 20001-3743
(202) 942-6188 (office phone)

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Appearance was served upon the Military Judge, Trial Counsel, and Defense Counsel on 1 May 2024.

[redacted]

Ryan D. Guilds
Arnold & Porter Kaye Scholer LLP
Ryan.Guilds@arnoldporter.com
601 Massachusetts Ave., NW
Washington, DC 20001-3743
(202) 942-6188 (office phone)

INSTRUCTIONS FOR ASSEMBLING THE CERTIFIED RECORD OF TRIAL

Arrange and bind the record of trial with allied papers in the sequence indicated below. The court reporter is responsible for certifying the record of trial prior to transmittal for appellate review, in accordance with R.C.M. 1112 and JAG/CNLSCINST 5813.1G.

1. Pages 1 (Cover page) and 2 (Chronology Sheet) of DD Form 490 (enclosure 7).

2. Court reporter certification of Record of Trial (enclosure 8).

3. Military Judge verification of Record of Trial (enclosure 8).

4. DD Form 490 (pages 3-6 and any continuation pages if needed) (enclosure 7).

5. Completed Post-Trial Checklist from JAG/CNLSCINST 5814.1G (enclosure 2).

6. Completed Convening Authority's Action Checklist (enclosure 4).

7. Post-Trial Documents.

a. Certificates/Proof of Service of the Certified Record of Trial to the accused and victim, if applicable (enclosure 7).

b. Convening Authority's Action and Entry of Judgment (enclosure 6).

c. Any requests for copies of the court-martial record pursuant to R.C.M. 1106 or 1106A (attach written requests, and any certificates/proof of service, but do not attach the victim's post-trial rights advisement or DD Form 2704).

d. Matters submitted by the accused and/or victim under R.C.M. 1106 or 1106A, or any written waiver of the right to submit such matters. Include all responses to requests here as well.

e. Any deferment request and the action on it (including any request to waive automatic forfeitures under Article 58b).

f. Conditions of suspension and proof of service on probationer under R.C.M. 1107, if any.

g. All clemency recommendations by members or military judge, if any.

h. Statement of Trial Results (enclosure 1).

i. Crime Reporting Information.

j. Accused's request for appellate defense counsel, or waiver/withdrawal of appellate review under R.C.M. 1115, if applicable.

k. All transfer orders, confinement orders, and excess leave orders.

l. Briefs of counsel submitted after trial, if any.

8. Preliminary Hearing.

a. DD Form 457, Preliminary Hearing Officer's Report, pursuant to Article 32, if such hearing was conducted, followed by any other allied papers that accompanied the charges when referred for trial (including any matters submitted under R.C.M. 405(l), unless included elsewhere in the record of trial).*

b. Waiver of Article 32 Hearing (if applicable).

9. Pre-Trial Allied Papers.

a. Convening Order and all amending convening orders.

b. DD Form 458, Charge Sheet (unless included at the point of arraignment in the transcript).

INSTRUCTIONS FOR ASSEMBLING THE CERTIFIED RECORD OF TRIAL

i. Any other information that could be used to identify a specific person other than the accused.

*If the report of preliminary hearing or record of trial contains exhibits, proceedings, or other materials ordered sealed by the preliminary hearing officer or military judge, counsel for the Government, the court reporter, or trial counsel shall cause such materials to be sealed to prevent unauthorized examination or disclosure, pursuant to R.C.M. 1113. Sealed material shall be properly marked, individually placed in separate envelopes with a copy of the preliminary hearing officer or military judge sealing order affixed to it, and inserted at the appropriate place in the record of trial. Do not duplicate sealed material to include it in any copy of the record of trial. Instead, insert a copy of the sealing order in lieu of any sealed material, in any copies of the record of trial.

DIVIDERS ARE NOT NECESSARY TO SEPARATE EACH SECTION. IF USED, THEY CAN BE PAPER RATHER THAN CARD STOCK. IF A PARTICULAR COMPONENT IS NOT APPLICABLE IN THE RECORD OF TRIAL, SUCH AS AN ARTICLE 32 HEARING, EXHIBITS NOT ADMITTED, POST-TRIAL PROCEEDINGS AND VACATION HEARINGS, DO NOT INSERT A DIVIDER OR PLACEHOLDER.

FRONT AND BACK COVER MUST BE ON BLUE CARDS STOCK AND LABELED WITH GUM LABELS.

Binding. Each volume of a record of trial should be no more than 1.5 inches thick and bound at the top with metal or plastic fasteners. **DO NOT** interlace or "piggy-back" prong fasteners to create an oversized volume. **DO NOT** place hole punches where it covers up the evidence or language in the transcript. When it becomes necessary to assemble the record of trial in more than one volume, the volumes will be numbered consecutively, on the front cover, as illustrated below:

Volume 1 of 4 (Pages 1-250)
Volume 2 of 4 (Pages 251-400)
Volume 3 of 4 (Pages 401-652)
Volume 4 of 4 (Pages 653-901 and Exhibits)

Make the first volume of a multi-volume record an inch thick or smaller to allow for inclusion of post-trial documents. Limit subsequent volumes to 1.5 inches, unless dividing them requires assembling an additional volume smaller than a half inch.

Label the upper right-hand corner or the Preparation and Certification of Record of Trial Form (enclosure (8)) to reflect which copy it is, i.e., "**ORIGINAL**," "**ACCUSED**," "**REVIEW**" etc.

Volume 5 of Volumes 5

CERTIFIED RECORD OF TRIAL

(and accompanying papers)

of

Bopp	Jesse	T	[redacted]	Cpl
(Last Name)	*(First Name)*	*MI*	*(DoD ID No.)*	*(Rank)*

2d Bn, 6th MarRegt, 2d MarDiv	USMC	Camp Lejeune, NC
(Unit/Command Name)	*(Branch of Service)*	*(Location)*

By

General Court-Martial (GCM) COURT-MARTIAL

(GCM, SPCM, or SCM)

Convened by Commanding General

(Title of Convening Authority)

2d Marine Division

(Unit/Command of Convening Authority)

Tried at

Camp Lejeune, NC On 30 January, 5 March, 17 June, 5 September 2024, and 6 and 7 January 2025

(Place or Places of Trial) *(Date or Dates of Trial)*

Companion and other cases None.

(Rank, Name, DOD ID No., (if applicable), or enter "None")

This volume contains
AEs XXVII-LVII

Appellate Exhibits

Samuel Maj Jason D

From:	Workman Col Adam J
Sent:	Monday, March 11, 2024 12:37 PM
To:	Rehak Maj Joshua A; Henry LtCol Nicholas S; Mclaughlin Capt Jessica L; Samuel Maj Jason D
Cc:	Allen LtCol Stacy M; ejc.clerkofcourt; LSSS-E Regional Court Reporters
Subject:	RE: U.S. v. Bopp - Govt Motion for Preliminary TMO
Attachments:	Bopp TMO Initial SIGNED.pdf
Signed By:	adam.j.workman1@usmc.mil

Thank you Maj Rehak. The initial milestones are ordered into effect. We'll take up the trial dates next Monday at 1300 in an 802 via TEAMS.

S/f

Col W

From: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Sent: Monday, March 11, 2024 12:27 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Allen LtCol Stacy M <stacy.allen@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: U.S. v. Bopp - Govt Motion for Preliminary TMO

You Honor,

No objection.

V/r,

Joshua A. Rehak
Major, USMC
Senior Defense Counsel
MCAS Cherry Point
(o)252-466-4873
(c)[redacted]

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION OR ATTORNEY WORK PRODUCT. This e-mail may contain attorney-client confidential information or information protected by the attorney work-product privilege and Privacy Act (5 U.S.C. § 552a) information. If you have received this in error, please notify the sender immediately at the above email or phone number, and delete or destroy this message.

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Monday, March 11, 2024 11:11 AM
To: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Allen LtCol Stacy M <stacy.allen@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: U.S. v. Bopp - Govt Motion for Preliminary TMO

AE XXVII
Pg 1 of 26

Defense,

Any objection to the Court ordering TMO items a. through f.?

S/f

Col W

From: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>
Sent: Monday, March 11, 2024 10:49 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Allen LtCol Stacy M <stacy.allen@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: U.S. v. Bopp - Govt Motion for Preliminary TMO

Sir,

Good morning, Your Honor. Maj Samuel is TAD, but I, or Maj Rimmer, can stand in for the Government if there is a time that everyone else is available for an 802 this week. While I am traveling TAD myself Today through Wednesday, I should be available most times. If next week is the preferred COA for all Parties, the Government would recommend 1300 on Monday 18 March. It appears from the docket, you have an arraignment from 0900-0930, but there are no other scheduled session at CLNC that afternoon.

Additionally, if next week is better for everyone for the 802, the Government would request that you order the preliminary dates that Maj Samuel sent in the MFAR and enclosure (the draft TMO with just a. through f. filled out) on Friday to facilitate continued progress in the discovery process and solidify, at least, the next 39(a) date (16 April). That was a date all parties had identified as available in continued discussions on a TMO. These Initial Trial Milestones will allow the Government to respond to any specific discovery requests the Defense may have, above what has already been provided; allow the parties to continue to discuss additional TMO dates until next week's 802; and allow the Government to facilitate the necessary travel for a first 39(a) session on 16 April 24, once ordered.

V/r,

LtCol Henry

Nicholas S. Henry
Lieutenant Colonel, U.S. Marine Corps
Regional Special Trial Counsel East
Office of Special Trial Counsel
C: [redacted]
Nicholas.s.henry@usmc.mil

FOR OFFICIAL USE ONLY-PRIVACY SENSITIVE - This email, including any attachments, may contain information that requires protection from unauthorized disclosure. Do not disseminate this email, or its contents, to anyone who does not have an official need for access. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Monday, March 11, 2024 9:57 AM

AE XXVII
Pg 2 of 26

To: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: U.S. v. Bopp - Govt Motion for Preliminary TMO

Thank you Maj Rehak and Capt McLaughlin. In that case we will conduct an 802 next week, or as soon as everyone is available.

S/f

Col W

From: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Sent: Monday, March 11, 2024 9:51 AM
To: Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Workman Col Adam J <adam.j.workman1@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: U.S. v. Bopp - Govt Motion for Preliminary TMO

Good morning Sir,

That is correct.

Additionally, I know that LtCol Allen and Major Samuel are TAD this week.

V/r,

Joshua A. Rehak
Major, USMC
Senior Defense Counsel
MCAS Cherry Point
(o)252-466-4873
(c)[redacted]

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION OR ATTORNEY WORK PRODUCT. This e-mail may contain attorney-client confidential information or information protected by the attorney work-product privilege and Privacy Act (5 U.S.C. § 552a) information. If you have received this in error, please notify the sender immediately at the above email or phone number, and delete or destroy this message.

From: Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>
Sent: Monday, March 11, 2024 9:45 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: U.S. v. Bopp - Govt Motion for Preliminary TMO

Good morning Sir,

Understood. I know Maj Rehak is in a GCM this week, so I will coordinate with him for a good time.

AE XXVII
Pg 3 of 26

V/r,

Jessica McLaughlin
Captain, USMC
Defense Counsel
MCB Camp Lejeune
New River DSO Office
Office: 910-449-4627
Work Cell: 771-216-5315

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Monday, March 11, 2024 8:33 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: U.S. v. Bopp - Govt Motion for Preliminary TMO

Counsel,

Let me know what day this week will work for an 802. BPT discuss why dates in August will not work.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Friday, March 8, 2024 5:37 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: U.S. v. Bopp - Govt Motion for Preliminary TMO

Good afternoon Your Honor:

The Government is requesting that you establish preliminary trial milestones for U.S. v. Bopp. At the arraignment on 5 March, the presiding Military Judge declined to order any trial milestone dates or establish a trial date. The parties' initial request for trial dates (1-16 August – Government; 20-31 January 2025 – Defense) were not aligned. However, the parties have been communicating about a trial dates since the arraignment.

The Government is asking the Court to establish initial discovery milestones and docket a 39a on 16 April to finalize trial milestones if the parties cannot reach an agreement before then. This will allow the case to proceed forward while the parties attempt to agree upon a trial date. Docketing the 39a on 16 April will provide an established deadline for a decision on trial dates, and allow time for the Government to facilitate the out-of-area victims' travel to be present.

Thank you Your Honor and have a good weekend.

Very Respectfully,

Jason D. Samuel

AE XXVII
Pg 4 of 26

Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

AE XXVII
Pg 5 of 26

Samuel Maj Jason D

From: Workman Col Adam J
Sent: Monday, April 8, 2024 8:29 AM
To: Samuel Maj Jason D
Cc: Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Allen LtCol Stacy Marie; Henry LtCol Nicholas S; OSTC East; LSSS-E Regional Court Reporters
Subject: RE: Cancellation Request: Discovery 39a ICO U.S. v. Bopp
Signed By: adam.j.workman1@usmc.mil

Copy all. Thanks for the update.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Monday, April 8, 2024 8:18 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: Cancellation Request: Discovery 39a ICO U.S. v. Bopp

Good morning Your Honor:

No motions have been filed for discovery in this case. After consultation with the defense, both parties agree that the scheduled hearing on 16 April is not necessary. We request to cancel the docketed hearing for 16 April.

The next docketed hearing is for 17 June. The Court has tentatively docketed 6-10 May as a potential week for a hearing if one is required.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

AE XXVII
Pg 6 of 26

Samuel Maj Jason D

From: Workman Col Adam J
Sent: Monday, April 8, 2024 9:10 AM
To: Samuel Maj Jason D
Cc: Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Allen LtCol Stacy Marie; Henry LtCol Nicholas S; OSTC East; LSSS-E Regional Court Reporters
Subject: RE: Cancellation Request: Discovery 39a ICO U.S. v. Bopp
Signed By: adam.j.workman1@usmc.mil

Cancelled.

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Monday, April 8, 2024 8:44 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Cancellation Request: Discovery 39a ICO U.S. v. Bopp

Your Honor:

To clarify, does this mean you have agreed to cancel this hearing, or do want us to submit a negative PTIR?

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Monday, April 8, 2024 8:29 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Cancellation Request: Discovery 39a ICO U.S. v. Bopp

Copy all. Thanks for the update.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Monday, April 8, 2024 8:18 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Allen

AE XXVII
Pg 7 of 26

LtCol Stacy Marie <stacy.allen@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: Cancellation Request: Discovery 39a ICO U.S. v. Bopp

Good morning Your Honor:

No motions have been filed for discovery in this case. After consultation with the defense, both parties agree that the scheduled hearing on 16 April is not necessary. We request to cancel the docketed hearing for 16 April.

The next docketed hearing is for 17 June. The Court has tentatively docketed 6-10 May as a potential week for a hearing if one is required.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

AE XXVII
Pg 8 of 26

Samuel Maj Jason D

From:	Workman Col Adam J
Sent:	Friday, April 12, 2024 2:27 PM
To:	Samuel Maj Jason D
Cc:	Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Allen LtCol Stacy Marie; Henry LtCol Nicholas S; OSTC East; LSSS-E Regional Court Reporters; ejc.clerkofcourt
Subject:	RE: UPDATE: Cancellation Request: Discovery 39a ICO U.S. v. Bopp
Signed By:	adam.j.workman1@usmc.mil

Thanks for the update, Maj Samuel.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Friday, April 12, 2024 2:25 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>
Subject: UPDATE: Cancellation Request: Discovery 39a ICO U.S. v. Bopp

Good afternoon Your Honor:

As an update to our previous communications this week regarding the cancellation of the 16 April 39(a) session, along with there being no motions to compel discovery, the Government also did not receive any requests for expert consultants from Defense on 25 March. Accordingly, we did not provide any responses on 1 April; and neither side filed any motions for the Court to adjudicate on 4 April pursuant to the TMO.

The next relevant milestones are due on 15 May: Defense Request for Expert Witnesses and Government Notice for MRE 404B.

While the Court has blocked off May 6-10 for an Article 39a session if necessary, the VLC has indicated that her clients are only available for 6-7 May in the event a 39a is ordered by the Court.

The Government anticipates submitting a PTIR for 17 June as the next session of Court in which substantive motions will likely be litigated.

Please let us know if there are any questions or concerns from the Court. Have a good weekend.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725

AE XXVII

Pg 9 of 26

*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Monday, April 8, 2024 9:10 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Cancellation Request: Discovery 39a ICO U.S. v. Bopp

Cancelled.

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Monday, April 8, 2024 8:44 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Cancellation Request: Discovery 39a ICO U.S. v. Bopp

Your Honor:

To clarify, does this mean you have agreed to cancel this hearing, or do want us to submit a negative PTIR?

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Monday, April 8, 2024 8:29 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Cancellation Request: Discovery 39a ICO U.S. v. Bopp

Copy all. Thanks for the update.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Monday, April 8, 2024 8:18 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; OSTC East

AE XXVII
Pg 10 of 26

<OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: Cancellation Request: Discovery 39a ICO U.S. v. Bopp

Good morning Your Honor:

No motions have been filed for discovery in this case. After consultation with the defense, both parties agree that the scheduled hearing on 16 April is not necessary. We request to cancel the docketed hearing for 16 April.

The next docketed hearing is for 17 June. The Court has tentatively docketed 6-10 May as a potential week for a hearing if one is required.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
(C):** [redacted] **
(E): jason.d.samuel.mil@usmc.mil

AE XXVII
Pg 11 of 26

Samuel Maj Jason D

From: Workman Col Adam J
Sent: Tuesday, April 23, 2024 10:20 AM
To: Samuel Maj Jason D; Rehak Maj Joshua A
Cc: Brummond LtCol Tyler Gregory; Henry LtCol Nicholas S; Allen LtCol Stacy Marie; Mclaughlin Capt Jessica L; ejc.clerkofcourt; OSTC East; LSSS-E Regional Court Reporters
Subject: RE: Draft TMO ICO U.S. v. Bopp
Signed By: adam.j.workman1@usmc.mil

Maj Samuel,

The filing deadlines below are so ORDERED by the Court. Thank you.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Tuesday, April 23, 2024 9:13 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Cc: Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Received, Your Honor.

We will talk to the defense offline to discuss their trial date conflicts and potential motion for a continuance.

Pursuant to the TMO, there is a docketed 39a session scheduled for the week of 6-10 May. However, there are no Court ordered filing deadlines for that 39a session. In the event that the parties are unable to reach a joint motion, the Government requests that the following motions filing deadlines be ordered by the Court to facilitate resolution of this issue and arranging for travel for the victims to be present at the 39a:

Motions Filed: **25 April**
Motions Response: **2 May**
39a: **7 May**

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Tuesday, April 23, 2024 8:37 AM
To: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>

AE XXVII

Pg 12 of 26

Cc: Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Counsel,

Copy all. Maj Rehak is taking the correct approach which is to address the issue in the form of a motion, and as he has acknowledged, a joint motion is preferrable.

S/f

Col W

From: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Sent: Tuesday, April 23, 2024 8:33 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Workman Col Adam J <adam.j.workman1@usmc.mil>; Brummond LtCol Tyler Gregory <tyler.brummond@usmc.mil>; Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Good morning Major Samuel,

I never said we do not have conflicts. We do in fact have conflicts, and we will litigate that appropriately through motions with our current TMO. Or, if the government and VLC are seeking a change, I suggest we discuss those changes before involving the Court in an 802.

V/r,

Joshua A. Rehak
Major, USMC
Senior Defense Counsel
MCAS Cherry Point
(o)252-466-4873
(c)[redacted]

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From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Monday, April 22, 2024 4:53 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>; Rehak Maj Joshua A

AE XXVII
Pg 13 of 26

<joshua.rehak@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Your Honor:

If the Defense does NOT have a scheduling conflict with the new trial dates, then there is no need for an 802.

The Government does not have a scheduling conflict with the new dates.

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Sent: Monday, April 22, 2024 4:51 PM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Good afternoon Your Honor,

We are not opposed to an 802, but I am not sure if one is necessary at this time. I have not received any emails from the government asking about scheduling issues, but if there are, I believe the parties can talk before bringing it to the Court.

V/r,

Joshua A. Rehak
Major, USMC
Senior Defense Counsel
MCAS Cherry Point
(o)252-466-4873
(c)[redacted]

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From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Monday, April 22, 2024 4:02 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

AE XXVII

Good Afternoon Your Honor:

During our previous meet and confer with the Defense and VLC last month, there were some scheduling issues raised with regard to an early October trial. I have spoken to the VLC and those issues can likely be worked around. However, the Defense has not yet confirmed that those conflicts no longer exist.

The Government requests that the Court hold an 802 for all parties to discuss feasible trial dates, or in the alternative that all parties acknowledge that there are no conflicts for the new dates of 2-16 October.

Does the Court have time this week for an 802 conference to discuss?

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Wednesday, April 17, 2024 2:29 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: Re: Draft TMO ICO U.S. v. Bopp

Received Your Honor. Thank you.

Very Respectfully,

Maj Jason Samuel - Team Lead
Office of Special Trial Counsel – Camp Lejeune

(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil
Sent via Mobile

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Tuesday, April 16, 2024 9:52:08 AM
To: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Counsel,

AE XXVII
Pg 15 of 26

As we discussed in the 802, the NMCTJ has training 20-24 October. I failed to account for that when I signed the drafted TMO. I have now revised the TMO accordingly by shifting the trial dates two weeks earlier. We'll break for Columbus Day as the mission allows. Thank you for your understanding.

S/f

Col W

From: Workman Col Adam J
Sent: Friday, March 22, 2024 11:05 AM
To: Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Counsel,

I have signed the final TMO. This TMO has the dates proposed by the G.

Please note that I acknowledge Maj Rehak's concerns and I would advise the parties that outstanding discovery may be considered favorably as good cause for any expert requests/motions filed outside of these deadlines. Especially as it might pertain witnesses and forensic evidence.

S/f

Col W

From: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Sent: Wednesday, March 20, 2024 4:43 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Good afternoon Your Honor,

Without getting too specific or trying to litigate via 802, I want to bring the Court's attention to two matters for why we disagree over the expert consultation requests and the TMO.

First, while we were provided discovery prior to the Art. 32 (approximately 1072 bate stamped discovery including pictures thousands of pictures and hours of videos), since the Art. 32, we have been provided approximately 630 more bate stamped discovery including pictures and videos. However, importantly, we have not received any discovery regarding fingerprints for the firearm and magazine which are being done by USACIL and digital evidence from LCpl A.S.'s Apple iPhone, Acer laptop, and Apple iPad which are being completed by government agencies. These items will take time. Depending on the outcome and methods used, defense might need an expert on these matters. Further, NCIS, to my knowledge, is still conducting interviews of witnesses and locating potential witnesses who were online gaming with LCpl A.S. when the incident occurred.

AE XXVII

Second, without having a response to our discovery request and disclosures from the government, it is not practicable to know exactly what experts we intend to employ. The government is misunderstanding what was presented at the arraignment. While we certainly can presume about the disciplines that we will need an expert for, defense is not in communication with any experts at this time regarding this case mainly because we have not seen the results of the testing on the items mentioned above.

Please find attached our proposed TMO.

V/r,

Joshua A. Rehak
Major, USMC
Senior Defense Counsel
MCAS Cherry Point
(o)252-466-4873
(c)[redacted]

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From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Wednesday, March 20, 2024 11:21 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Copy, thanks.

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Wednesday, March 20, 2024 11:18 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Sir:

Per the MARADMIN, 21-24 October are not training dates for the regions. We are unaware of any worldwide training for the various organizations during that week.
FY24 MILITARY JUSTICE TRAINING CALENDAR > United States Marine Corps Flagship > Messages Display (marines.mil)

V/R,
Maj Samuel

AE XXVII

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Wednesday, March 20, 2024 11:13 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: RE: Draft TMO ICO U.S. v. Bopp

Thank you Maj Samuel. The trial judiciary has training scheduled 21-24 October. Does OSTC and the DSO have training during the same time?

I will await the Defense's proposals.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Wednesday, March 20, 2024 11:10 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Henry LtCol Nicholas S <nicholas.s.henry@usmc.mil>; Allen LtCol Stacy M <stacy.allen@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>
Subject: Draft TMO ICO U.S. v. Bopp

Good morning Your Honor:

Please find attached the Government's draft TMO. It was provided to all parties on Monday following the post-802 meeting between all interested parties.

All parties are in agreement on the 39a dates of: 16 Apr, 17 Jun, 12 Aug, 26 Sep, and trial dates of 16-30 October 2024.

All parties have availability for a potential 39a if required the week of 6-10 May, with preferred dates of 6 or 7 May if ordered by the Court.

The Government and the Defense do NOT agree on the deadlines for expert consultant requests, answers, and motions to compel. The Government's position is reflected in the proposed TMO. We discussed with the Defense that they could then provide you with their proposed dates for those deadlines without having to draft an entirely new TMO that is 85% the same. Because the parties are available 6-10 May, and then not available again until June, the Government believes it would be best to litigate expert consultants on 16 April, which would allow for consultation to take place during 6-10 May.

The Government position on the expert consultant dates is that given the robust discovery provided pre-Article 32 and before referral in this case, the 16 April litigation date reasonably allows all expert consultant requests to be received, answered, and if necessary, litigated. The Government also believes this timeline is reasonable given the Defense assertion at arraignment, and again at the 802, that they have identified between three and five experts they are looking

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at. Finally, early litigation of the consultation makes it substantially more likely that if, and when, expert witnesses are ordered, they will be available during the October trial dates, since the Government is already agreeing to a prolonged TMO.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
***(C):** [redacted] *
(E): jason.d.samuel.mil@usmc.mil

AE XXVII
Pg 19 of 26

Samuel Maj Jason D

From: Workman Col Adam J
Sent: Wednesday, May 1, 2024 10:10 AM
To: Kim Capt Christophe C
Cc: ejc.clerkofcourt; Allen LtCol Stacy Marie; LSSS-E Regional Court Reporters; Samuel Maj Jason D; Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Cavallaro Capt Stefano J; Guilds, Ryan; Marissa Loya; Chasity Fair
Subject: RE: Representation Update ICO U.S. v. Bopp - Mr. Robert Schwenk and Mrs. Kassandra Christison
Signed By: adam.j.workman1@usmc.mil

VLC's: Copy all and welcome aboard. The docket for next week has not been published, but a 39a is anticipated. You may participate telephonically Capt Cavallaro.

S/f

Col W

From: Kim Capt Christophe C <christopher.c.kim@usmc.mil>
Sent: Wednesday, May 1, 2024 10:03 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Marissa Loya <Marissa.Loya@arnoldporter.com>; Chasity Fair <Chasity.Fair@arnoldporter.com>
Subject: RE: Representation Update ICO U.S. v. Bopp - Mr. Robert Schwenk and Mrs. Kassandra Christison

Good morning your Honor,

I am detailed as the VLC for Ms. Kassandra Christison, a 6b designee and mother of the victim in this case. Please see attached Notice of Appearance.

Very respectfully,
Christopher C. Kim
Captain, U.S. Marine Corps
Victims' Legal Counsel
MCB Camp Lejeune, NC
Work Phone: (910) 915-9782

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Pg 20 of 26

From: Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>
Sent: Wednesday, May 1, 2024 9:49 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Allen LtCol Stacy Marie <stacy.allen@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Kim Capt Christophe C <christopher.c.kim@usmc.mil>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Marissa Loya <Marissa.Loya@arnoldporter.com>; Chasity Fair <Chasity.Fair@arnoldporter.com>
Subject: RE: Representation Update ICO U.S. v. Bopp - Mr. Robert Schwenk and Mrs. Kassandra Christison

Good Morning Your Honor,

I am the detailed VLC for Mr. Robert Schwenk, Jr., the 6b designee and the father of the victim in *US v. Bopp*. Please find attached my Notice of Appearance. The LSSS-E court reporters have been cc'ed as well as the EJC Clerk of Court and all parties.

From my understanding, there is a possible 39a next week concerning a continuance motion. I am respectfully requesting to be allowed to participate telephonic if there is a hearing as I am stationed at Camp Pendleton. I can provide a more formal filing for this request if the Court would prefer so.

Standing by for any questions or concerns from the Court. Thank you.

Very Respectfully,

Stefano J. Cavallaro
Captain, U.S. Marine Corps
Victims' Legal Counsel
Camp Pendleton, CA

Google Voice: 424-666-7514

From: Allen LtCol Stacy Marie <stacy.allen@usmc.mil>
Sent: Wednesday, May 1, 2024 5:15 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Kim Capt Christophe C <christopher.c.kim@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Marissa Loya <Marissa.Loya@arnoldporter.com>; Chasity Fair <Chasity.Fair@arnoldporter.com>
Subject: Representation Update ICO U.S. v. Bopp - Mr. Robert Schwenk and Mrs. Kassandra Christison

Sir,

Good morning. I wanted to make the Court aware that I am no longer representing Mr. Schwenk and Mrs. Christison ICO U.S. v. Bopp. I have Cced the incoming VLC's on this email so they can appropriately file their Notices of Representation with the respective parties and Notice of Appearance with the Court.

I appreciated the opportunity to practice in the Eastern Region again.

V/r,
Lieutenant Colonel Stacy M. Allen
Deputy, Victims' Legal Counsel Organization

AE XXVII
Pg 21 of 26

Naval Support Facility - Arlington
701 S Courthouse Road
Building 2, Office 1D130B
Arlington, VA 22204
Office: (703) 697-8602
Cell [redacted]
Email: stacy.allen@usmc.mil

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Pg 22 of 26

Samuel Maj Jason D

From: Workman Col Adam J
Sent: Thursday, May 16, 2024 9:24 AM
To: Rehak Maj Joshua A
Cc: Mclaughlin Capt Jessica L; Samuel Maj Jason D
Subject: RE: Expert Witness Request ICO US v Bopp
Signed By: adam.j.workman1@usmc.mil

Solid copy Maj Rehak. However, my acknowledgment of this email is not a grant of permission to file late. Proceed as you see fit.

S/f

Col W

From: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Sent: Wednesday, May 15, 2024 6:09 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Subject: Expert Witness Request ICO US v Bopp

Good evening Your Honor,

I wanted to alert the Court that while the defense request for expert witnesses is due today, we are still working with our experts as consultants at this time and request that we be allowed to file our expert witness funding request at a later date.

If the Court requests further explanation, I would request that we be allowed to discuss this *ex parte* under R.C.M. 703(d)(2) since the issue involves what are still expert consultants.

V/r,

Joshua A. Rehak
Major, USMC
Senior Defense Counsel
MCAS Cherry Point
(o)252-466-4873
(c[redacted]

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Pg 23 of 26

Samuel Maj Jason D

From:	Workman Col Adam J
Sent:	Wednesday, May 29,.2024 9:24 AM
To:	Samuel Maj Jason D
Cc:	OSTC East; ejc.clerkofcourt; LSSS-E Regional Court Reporters; Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Kim Capt Christophe C; Cavallaro Capt Stefano J; Chasity Fair; Guilds, Ryan
Subject:	RE: NCORS Utilization ICO U.S. v. Bopp
Signed By:	adam.j.workman1@usmc.mil

Maj Samuel,

Good morning. Your previous request for 10 July defense lay witness requests, and 24 July for the government response, is GRANTED. Additionally, I have not received any ex parte requests from the Defense.

NCORS is not mandatory for this case. We will continue to utilize TEAMS and Outlook.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Wednesday, May 29, 2024 8:55 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: OSTC East <OSTCEAST@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; LSSS-E Regional Court Reporters <LSSSECourtReporters@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Kim Capt Christophe C <christopher.c.kim@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>
Subject: NCORS Utilization ICO U.S. v. Bopp

Good morning Your Honor:

In accordance with your email direction to the regional supervisors on 11 April concerning NCORS case entry, and Judge Advocate Division's guidance to not duplicates cases started in Wolverine within NCORS, the Government has not created an NCORS case file for U.S. v. Bopp.

Given that tomorrow is a motions filing deadline, the Government seeks to confirm that the Court is **not** mandating NCORS utilization for this case. If that is inconsistent with the Court's desire, we request to know as soon as possible so that the Government can create a case file and try to push it through to the Defense so that all parties can be in compliance with the TMO.

Thank you sir.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead

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Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

Samuel Maj Jason D

From:	Samuel Maj Jason D
Sent:	Wednesday, May 22, 2024 12:19 PM
To:	Workman Col Adam J
Cc:	OSTC East; LSSS-E Regional Court Reporters; Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Kim Capt Christophe C; Cavallaro Capt Stefano J; Chasity Fair; Guilds, Ryan; ejc.clerkofcourt
Subject:	Witness Request Update ICO U.S. v. Cpl Bopp
Signed By:	jason.d.samuel.mil@usmc.mil

Good afternoon Your Honor:

The Government realized that the signed TMO does not include a date for requesting lay witnesses to be produced by the Government. After consulting with Defense, both parties have agreed to 10 July as the deadline for the Defense to submit its witness request to the Government so that this may litigated at the 12 August 39a.

We request that the Court order as TMO deadlines: 10 July defense lay witness requests, and 24 July for the government response. This will line up with the already ordered motions filing deadline of 31 July.

Additionally, regarding the TMO deadline for the Defense to request funding for expert witnesses. There was an offer by the defense to provide the Court with information ex parte. The Government is not aware if those communications occurred. Given today is the Government's deadline to respond to any defense expert witness funding request, we are alerting the Court that we don't believe there is any response due and that the government is in compliance with the TMO, as the Government has not received any expert witness requests in accordance with the TMO deadline or since the Defense's last communications with the Court that we were copied on. We are not aware of any judicial modifications to the TMO regarding expert witnesses or aware of if any filings took place ex parte. While we would not be privy to the content, it is our understanding we would at least be alerted to the filing of the request/motion. While the government has provided the names and contact information for our expert witnesses and the defense has indicated they are consulting with one or more experts, we wanted to ensure we could litigate any funding for expert witnesses at the earliest opportunity to avoid any conflicts with a defense expert's availability and the judicially ordered trial dates.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

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NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
SPECIAL COURT-MARTIAL

UNITED STATES **V.** **JESSE T. BOPP** **CORPORAL** **USMC**	**DEFENSE RESPONSE TO GOVERNMENT MOTION FOR APPROPRIATE RELIEF (PRELIMINARY RULING ON ADMISSIBILITY FOR VEHICLE SEARCH & SEIZURE)** **12 JUN 24**

MOTION

The defense files this response to the Governments motion for a preliminary ruling on admissibility. Pursuant to Rule for Court-Martial (R.C.M.) 905(b) and RCM 906(b)(13), the defense intends to reserve any and all objections to the evidence at issue until the Government specifically offers the exhibits it intends to admit during its case in chief at trial. Additionally, pursuant to Military Rule of Evidence (M.R.E.) 401, the Government's motion should be denied.

SUMMARY

The Government filed a motion seeking to pre-admit a command authorizations for search and seizure (CASS) of Corporal Bopp's barracks room, a CASS for Corporal Bopp's vehicle, and "the fruits" from those searches. It is unclear whether the Government intends to offer the written CASS into evidence or if the Government is attempting to admit any physical evidence gained from the search and seizure.

LAW

RCM 906(b)(13) is titled "*Admissibility*. Preliminary ruling on admissibility of evidence." The discussion states that "[a] request for a preliminary ruling on admissibility is a request that certain matters which are ordinarily decided during trial of the general issue be resolved before they arise, outside the presence of members. The *purpose of such a motion is to avoid the prejudice which may result from bringing inadmissible matters to the attention of court members*." (*emphasis added*).

R.C.M. 905(b) states that "Any defense, objection, or request which is capable of determination without the trial of the general issue of guilt *may* be raised before trial." (*emphasis added*). The Discussion section of subsection 3 of this rule states that "[q]uestions concerning the admissibility of evidence on . . . grounds [other than involuntary confessions and admissions, unlawful searches and seizures, and eyewitness identification] *may be raised by objection at trial or by motions in limine*." (*emphasis added*).

M.R.E. 401 states that "Evidence is relevant if: it has any tendency to make a fact more or less probable than it would be without the evidence; and the fact is of consequence in determining the action."

ANALYSIS

The purpose of R.C.M. 906(b)(13) is to permit the party, who the evidence is going to be offered against – in this case the Defense, to move to exclude the evidence outside the presence of the members because of the prejudice that might result if not addressed before trial. The types of motions contemplated by the rule include motions filed under the M.R.E.s such as motions to exclude or limit the quantity or nature of autopsy photographs, or motions concerning the admissibility of lay and expert opinions. To be sure, the purpose of R.C.M. 906(b)(13) is not to

permit the proponent of the evidence to identify foundational deficiencies, conduct a practice run on admitting the evidence, or obtain an advisory opinion from the court as to whether, in its current form, the evidence will be admitted. Notably, the rules, as outlined below, dictate that the Defense, with limited exceptions, determines whether to raise an objection in limine or during trial. Stated differently, no rule supports the position that the defense should be required to raise objections based on a Government motion for a ruling on the admissibility of evidence thereby giving the Government the opportunity to cure defects with its evidence prior to trial.

R.C.M. 905(b) is a discretionary rule. Further, the Discussion section of subsection 3 of this rule states "[q]uestions concerning the admissibility of evidence on . . . grounds [other than involuntary confessions and admissions, unlawful searches and seizures, and eyewitness identification] *may be raised by objection at trial or by motions in limine*." (*emphasis added*). As such, any issue concerning the admissibility of evidence – based on relevance, foundation, authenticity, etc. – may be raised during trial, and the Defense cannot be required to raise them prior to trial. In other words, just because the Government files a motion for a preliminary ruling on admissibility does not mean the defense is required to respond with all the objections/ challenges to the evidence that it was intending to raise at trial when the Government would not have time to react and cure foundational deficiencies.

Lastly, it is not clear what the Government intends to offer into evidence. By their motion, the Government intends to offer the CASS of the vehicle and fruits from it. This is non-specific. First, the actual hard copy document of the CASS is not relevant, and it would be cumulative with the testimony of NCIS agents. Second, simply asking the Court to rule that the "fruits" are admissible without saying what the evidence offered is, does not allow the defense to

raise an objection. The Government should have to articulate what evidence they are actually attempted to admit into evidence.

5. **RELIEF REQUESTED**. Defense requests the Court to DENY the Government's motion.

6. **ENCLOSURES**. None.

7. **BURDEN OF PROOF**. The Government bears the burden of proof, and the burden of persuasion is by a preponderance of the evidence.

8. **ORAL ARGUMENT**. Defense requests oral argument.

[redacted]
J. A. Rehak
Major, USMC
Defense Counsel

CERTIFICATE OF SERVICE

I hereby certify that on the 12th Day of June 2024, a copy of this Motion was served on Trial Counsel and the Court.

[redacted]
J. A. Rehak
Major, USMC
Defense Counsel

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DEPARTMENT OF THE NAVY
NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES v. JESSE T. BOPP CORPORAL/E-4 U.S. MARINE CORPS	**GOVERNMENT RESPONSE TO DEFENSE MOTION *IN LIMINE* (Exclude 404b)** 12 June 2024

1. Nature of Motion.

The Government requests that the Court deny the Defense motion and find that all the noticed 404b acts are admissible.

2. Burden of Proof and Persuasion.

As the moving party, the Defense bears the burden of proof and persuasion[1] for this motion. To admit 404b evidence at trial, the Government is not required to prove the act by a preponderance of the evidence to the trial court.[2] The Government must present the Court sufficient information to decide whether a "jury could reasonably find the conditional fact by a preponderance of the evidence."[3]

3. Summary of Facts.

On 18 October 2023, Corporal Jesse Bopp shot and killed Lance Corporal A.S.[4] He was

[1] R.C.M. 905(c).
[2] "We conclude that a preliminary finding by the court that the Government has proved the act by a preponderance of the evidence is not called for under Rule 104(a). 6 This is not to say, however, that the Government may parade past the jury a litany of potentially prejudicial similar acts that have been established or connected to the defendant only by unsubstantiated innuendo. Evidence is admissible under Rule 404(b) only if it is relevant." Huddleston v. United States, 485 U.S. 681, 689 (1988).
[3] "[T]he trial court neither weighs credibility nor makes a finding that the Government has proved the conditional fact by a preponderance of the evidence. The court simply examines all the evidence in the case and decides whether the jury could reasonably find the conditional fact by a preponderance of the evidence." *United States v. Mirandes-Gonzalez*, 26 M.J. 411, 413-414 (CMA 1988).
[4] Names of victims and witnesses will be redacted IAW EJCR 7.3.

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taken into custody later that day and placed into pre-trial confinement on 19 October 2023. Charges were preferred against him on 29 November 2023.[5] An Article 32 Preliminary Hearing was held 3 January 2024. On 19 January 2024, the Convening Authority referred his charges to this general court-martial. The accused was arraigned on 5 March 2024.

On 15 May 2024, the Government provided the Defense MRE 404b notice in compliance with Trial Management Order. The Defense filed a motion partially opposing this evidence on 30 May 2024. This response follows.

4. Discussion of Law and Analysis.

The Law

"[E]vidence of intent and lack of accident may be admitted regardless of whether a defendant argues lack of intent because every element of a crime must be proven by the prosecution."[6] "Before trial the Government must provide the defense with reasonable notice of the general nature of any M.R.E. 404b evidence that the prosecution intends to offer at trial."[7] The decision to admit evidence under M.R.E. 404b is based on the three-part test enunciated in *United States v. Reynolds*, 29 M.J. 105 (C.M.A. 1989): "Specifically, *Reynolds* asks: (1) does the evidence reasonably support a finding that appellant committed a specific act; (2) does evidence of this act make a fact of consequence more or less probable; and (3) is the probative value of the evidence of this act substantially outweighed by the danger of unfair prejudice?"[8] "[T]he sole test under Mil.R.Evid. 404b is whether the evidence of the misconduct is offered for some purpose other than to demonstrate the accused's

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[5] Charge Sheet

[6] *United States v. Harrow*, 65 M.J. 190, 202 (CAAF 2007).

[7] "Before trial" the Government must provide the defense with "reasonable notice of the general nature of any [M.R.E. 404(b)] evidence that the prosecution intends to offer at trial." *United States v. Wilson*, 2024 CAAF LEXIS 287, *9

[8] *United States v. Wilson*, 2024 CAAF LEXIS 287, *13-14

predisposition to crime and thereby to suggest that the factfinder infer that he is guilty, as charged, because he is predisposed to commit similar offenses. It is unnecessary, however, that relevant evidence fit snugly into a pigeon hole provided by Mil.R.Evid. 404b."[9] To exclude relevant evidence, the danger of unfair prejudice must substantially outweigh the probative value of the evidence.[10] To determine this, the Court must apply the balancing test articulated in *United States v. Berry*: "[T]he strength of the proof of the prior act; the probative weight of the evidence; the potential to present less prejudicial evidence; the possible distraction of the fact-finder; the time needed to prove the prior conduct; the temporal proximity of the prior event; the frequency of the acts; the presence of any intervening circumstances; and the relationship between the parties."[11]

Evidence of motive is relevant within the meaning of MRE 401 to show the doing of an act by a person as an outlet for that emotion if the prior act reasonably could be viewed as the expression and effect of the existing internal emotion that existed in the accused at the time of the charged acts.[12] The trial court "neither weighs credibility nor makes a finding that the Government has proved the conditional fact by a preponderance of the evidence. The court simply examines all the evidence in the case and decides whether the jury could reasonably

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[9] *United States v. Castillo*, 29 M.J. 145, 150 (C.M.A. 1989).

[10] "Once the evidence meets these threshold requirements, a military judge must apply the balancing test of M.R.E. 403 under which the testimony may be excluded if its "probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the members." *United States v. Berry*, 61 M.J. 91, 95 (CAAF 2005).

[11] "In conducting the M.R.E. 403 balancing test a military judge should consider the following factors: the strength of the proof of the prior act; the probative weight of the evidence; the potential to present less prejudicial evidence; the possible distraction of the fact-finder; the time needed to prove the prior conduct; the temporal proximity of the prior event; the frequency of the acts; the presence of any intervening circumstances; and the relationship between the parties." *United States v. Berry*, 61 M.J. 91, 95 (CAAF 2005).

[12] "Evidence of motive is relevant within the meaning of Mil.R.Evid. 401 to show the doing of an act by a person as an outlet for that emotion. See generally 1A Wigmore, Evidence § 117 (Tillers rev. 1983). However, the prior acts of conduct must be the type which reasonably could be viewed as "the expression and effect of the existing internal emotion." Id. at 1696. Moreover, this same motive must be shown to have existed in appellant at the time of the subsequently charged acts." *United States v. Watkins*, 21 M.J. 224, 227 (CMA 1986)

find the conditional fact by a preponderance of the evidence."[13] Thus, the task for the military judge is to determine whether there is sufficient evidence for a reasonable court member to believe that the accused in fact did the extrinsic act.[14]

Discussion

The Government's evidence is admissible as res gestae of the offense and has been appropriately noticed under MRE 404b. In accordance with the *Reynolds* factors, the evidence reasonably supports that the accused committed acts at issue.[15] Facts of consequence in this case are made more probable by the existence of this evidence.[16] The probative value of this evidence is not substantially outweighed by the danger of unfair prejudice.[17]

Uncontested Admissible Evidence

The Defense concedes that the following evidence is admissible under MRE 404b:

a. Accused's AA&E package,

b. Accused's Cabela's Firearm Safety Form,

c. Accused's Use of Force Acknowledgement,

d. Accused's Armory Statement of Understanding,

e. the Accused running away from the scene of the murder,

f. Sergeant T.R.'s, Lance Corporal K.RM's, and Corporal T.C.'s observation of the accused's firearms handling in the past,

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[13] *United States v. Mirandes-Gonzalez*, 26 M.J. 411, 413-414 (CMA 1988).
[14] *United States v. Mirandes-Gonzalez*, 26 M.J. 411, 414 (CMA 1988).
[15] "Reynolds Factor #1: Whether the evidence reasonably supports that the appellant committed the acts at issue." *United States v. Wilson*, 2024 CAAF LEXIS 287, *14-15
[16] "Reynolds Factor #2: Whether a fact of consequence is made more probable by the existence of this evidence." *United States v. Wilson*, 2024 CAAF LEXIS 287, *15
[17] "Reynolds Factor #3: Whether the probative value of the evidence was substantially outweighed by the danger of unfair prejudice." *United States v. Wilson*, 2024 CAAF LEXIS 287, *24.

g. Sergeant T.R.'s observation of the accused drunk, and

h. Lance Corporal A.D.'s and Lance Corporal B.M.'s observation of the accused's negligent firearms handling the night of murder.

While the Defense concedes that the above evidence is admissible, the Defense argues that the Government should not receive an instruction under MRE 404b for that evidence. The Government disagrees. If the Government reasonably shows that the accused committed these acts, facts of consequence in this case are made more probable by these acts, and the probative value of this evidence is not substantially outweighed by unfair prejudice, the Government is entitled to a 404b instruction. There is no cited legal authority supporting the Defense's contention that the while the evidence is admissible under MRE 404b, an instruction is inappropriate. Indeed, the only ostensible reason why the Government would not be permitted to admit this evidence under MRE 404b would be in the event the accused pled guilty to all of the charged offenses, thus obviating the Government's need to independently prove its case beyond a reasonable doubt. Therefore, all these evidentiary items should be admitted under MRE 404b, and the properly instructed at trial. The Government has provided sufficient notice to the accused before trial.

Accused's Statement to Lance Corporal A.D.

The accused's statement to Lance Corporal A.D. that ,"Every day I get closer to EAOSing I'm itching to kill someone," is admissible under MRE 404b. The Defense concedes that prong one of the *Reynolds* test is met. The Government concurs because the evidence reasonably supports a finding that the accused said those words. The second and third prongs of the *Reynolds* test also support the admission of this evidence. As to the second prong, the accused made this statement mere minutes before he shot and killed the victim. It makes the fact

that the accused acted with wanton disregard for human life by discharging a loaded weapon into the victim's head more probable. Further this evidence can reasonably support the fact that the accused's intention was to pull the trigger on the loaded weapon, laying bare his wanton disregard for human life and indifference to the likelihood of the victim's death. It could also show his heedlessness of the probable consequences of discharging a firearm into the victim's head because it establishes his mindset that evening was a lack of regard for humans and the consequences of such actions. The Defense's desire to favorably characterize the accused's statement as typical joke or dark humor is understandable. But the reality is, that the accused's statement on the *night* of the incident, could have the tendency to show's intent to commit an inherently dangerous act such as pressing a firearm up against the victim's head and discharging the weapon and the natural and probable consequences of that act. As such, the Government has demonstrated a clear non-propensity purpose for the admission of this statement.

For the third prong of the *Reynolds* test, the probative value of the accused's statement is high. It is most certainly not substantially outweighed by the danger of unfair prejudice. The accused's statement to Lance Corporal A.D. goes directly to his motive to commit an inherently dangerous act, which act did in fact kill the victim. This motive evidence is made even more relevant and admissible by a not guilty plea.[18] So long as the accused pleads not guilty to having intentionally engaged in an inherently dangerous act, as it is absolutely his right to do, this statement is probative to show his wanton disregard for human life, shows his indifference to the probability of death, and demonstrates an clear understanding of the probable consequences to his actions.

[18] "Appellant submits that 'motive' evidence is not relevant -- and, thus, not admissible -- when the accused flatly denies the alleged acts…We disagree." *United States v. Rhea*, 33 M.J. 413, 422 (CAAF 1991).

The Government is required to show that accused acted with wanton disregard for human life.[19] To show this wanton disregard, the Government will argue that the accused's present state of mind just a few minutes before the incident, evinced a desire to "kill someone." In other words, the accused stated quite casually his wanton disregard for human life. He was openly willing to walk up to the line that he later deliberately stepped over it when he pulled the trigger, even if his intent was not to kill the victim. This statement also rebuts certain defenses that the defense may attempt to argue at trial, for example that: the accused didn't know the weapon was loaded, he did not believe the natural and probable consequences of shooting a firearm at the victim's head would cause death, and the accused accidentally pulled the trigger. Although not an element of the Article 118 charge, it would counter any argument or implication that the accused should be found not guilty because he did not intend to kill the victim. While the Government has given notice of specific MRE 404b uses for this evidence, the Government is not bound to those specific items. The Government has satisfied its obligation to provide the defense "reasonable notice before trial that the Government intend[s] to seek the admission" of this evidence.[20]

This evidence clearly survives a MRE 403 analysis. Consistent with the *Berry* factors, there is strong proof of the accused's statement by the eye and earwitness to the statement, the evidence is highly probative to the accused's wanton disregard for human life, the statement of

[19] This is a slightly higher standard than the culpable negligence required for the Article 119.

[20] "We concede that, as Appellant points out, the Government initially did not specifically argue that the journal was admissible under M.R.E. 404(b). Rather, trial counsel's stated basis for seeking the admission of the journal was that it would provide the panel members with "direct evidence of [Appellant's] intent to engage in sexual behavior with minors" under M.R.E. 401, 402, and 403. However, we note that "intent" is a basis for the admission of evidence under M.R.E. 404(b). Moreover, in response to the Government's motion, the defense specifically argued to the military judge that the journal was not admissible under M.R.E. 404(b), thereby implicitly acknowledging that this M.R.E. 404(b) issue was on the table...We therefore conclude that the Government complied with M.R.E. 404(b) because the defense was given reasonable notice before trial that the Government intended to seek the admission of the journal." *United States v. Wilson*, 2024 CAAF LEXIS 287, *9-10

the accused is not inflammatory, the evidence is res gestae to all of the charged offenses in the case and will be proven at the same time as the other testimony, and the statement was uttered by the Accused himself mere minutes before the murder of the victim, and it was said to a Marine with a close working relationship with the accused. The statement was only said once and there were no intervening circumstances to change the context of the accused's actions mere minutes before he committed the inherently dangerous act. Accordingly, this evidence should be admitted under MRE 403.

Sergeant T.R.'s Lay Opinion of Accused's Drunkenness

Sergeant T.R.'s opinion of the accused drunkenness is proper lay witness testimony under MRE 701. It is rationally based on Sergeant T.R.'s past interaction with the Accused and his perception of the accused on that night. Should the defense choose to argue that the accused was "too drunk" to know what he was doing, the testimony of Sergeant T.R. would be especially helpful to the members in determining a fact in issue. Because of Sergeant T.R.'s personal knowledge, his testimony would not be speculative and has the proper foundation.

5. Relief Requested.

The Government respectfully requests that this Court find that all the items noticed in its 404b notice are admissible at trial, and to give the appropriate 404b instructions at trial.

6. Evidence.

a. Enclosure 1: Accused's AA&E package

b. Enclosure 2: Accused's Cabela's Firearm Safety Form

c. Enclosure 3: Accused's Use of Force Acknowledgement

d. Enclosure 4: Accused's Armory Statement of Understanding

e. Enclosure 5: Accused running away from the scene.

f. Enclosure 6: Accused's statement to LCpl A.D.

g. Enclosure 7: Accused's handling of firearms per Corporal T.C.

h. Enclosure 8: Accused's handling of firearms per Sergeant T.R. and Lance Corporal K.RM.

i. Enclosure 9: Accused's negligent handling of the weapon per Lance Corporal A.D. and Lance Corporal B.M.

7. **Oral Argument.** The Government requests an opportunity to respond to any argument made by Defense Counsel.

[redacted]
Jason D. Samuel
Major, USMC
Special Trial Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Government Response to the Defense Motion *In Limine* was served electronically on defense counsel on 12 June 2024.

[redacted]
Jason D. Samuel
Major, USMC
Special Trial Counsel

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ENCLOSURE 1

Accused's AA&E package

AE XXX

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NAVMC 11386 (REV. 06-09) (EF)
FOUO – Privacy Sensitive when filled in.

PERSONNEL SCREENING FORM FOR ARMS, AMMUNITION, AND EXPLOSIVES (AA&E)

Screening (check one): ☒ INITIAL ☐ ANNUAL

Ref: (a) MCO 5530.14A
(b) MCO P4400.150

Individual being Screened		
Rank: CPL	Name: BOPP, JESSE, T	
EPIDI: [redacted]	MOS: 2171	Billet: Optics Technician
Date of Screening: 20220616	Signature: [redacted]	

Individual Conducting Screening		
Rank: 1stLt	Name: ROBERSON, TAYLOR L	
EDIPI: [redacted]	MOS:0402	Billet: Assistant Logistics Officer/ AA&E Officer
Date of Screening: 20220922	Signature: [redacted]	

SUBJECT	YES	NO	N/A	REMARKS
Individual's medical record has been screened by a competent medical authority. There are no medical conditions that would prevent this individual from handling AA&E.	☒	☐	☐	(BAS) Lindsay E. Murphy, MD LT MC, USN Print NPI: [redacted] S
Individual's service record book or officer qualification record has been screened. There is no derogatory information that would prohibit this individual from handling AA&E.	☒	☐	☐	(S1) Print Sgt Jordan S
Individual has no pending legal action and/or convictions by court-martial, civilian courts, or non-judicial punishments that would prohibit this individual from handling AA&E	☒	☐	☐	(LEGAL) Print Sgt Jordan S
Individual demonstrates the requisite maturity, judgment, and leadership required to handle AA&E.	☒	☐	☐	(AA&E) Print LT ROBERSON S
Has the individual had a National Agency Check (NACLC) or Entrance National Agency Check (ENTNAC) completed and is the result posted in the MMS system?	☒	☐	☐	(S2) Print [illegible] S
Has the individual qualified with the required security weapon within the last 12 months?	☒	☐	☐	(BTR) Print LT ROBERSON S
Has the individual completed instructions in the use of deadly force in the last three months and signed a deadly force certification if required to be armed in the performance of his/her duties?	☒	☐	☐	(Armory) Print LT ROBERSON Sig

Based on the above information, I have determined that the subject Marine (check one):

☒ **does meet** the personnel requirements to handle AA&E in the performance of their regular duties.

☐ **currently does not meet** the personnel screening requirements to handle AA&E in performance of their regular duties. Individual will be **re-evaluated in ____ days.**

☐ **can not meet** the personnel screening requirements to handle AA&E in performance of their regular duties. A summary of the findings for non-qualification are attached. If appropriate, the command will request via that action be taken to re-train and/or reassign subject individual to an occupational field not requiring routine handling of AA&E.

Retention: This record will be maintained for one year after termination of the individual's assignment, or one year after final interview if the individual is disqualified during the screening or re-screening process.

AE XXX

FOR OFFICIAL USE ONLY

EXHIBIT (76)

ENCLOSURE (8)

QUALIFICATION TO POSSESS FIREARMS OR AMMUNITION

PRIVACY ACT STATEMENT

AUTHORITY: 18 U.S.C. 922(g)(9); E.O. 9397.

PRINCIPAL PURPOSE(S): To obtain information to determine if you have been convicted of a crime of domestic violence which would disqualify you from shipping, transporting, possessing or receiving either Government-issued or private firearms or ammunition and to determine if reassignment, reclassification, detail or other administrative action is warranted. Your Social Security Number is solicited solely for purposes of verifying your identity.

ROUTINE USE(S): To the Department of Justice so that such information can be included in the National Instant Criminal Background Check System which may be used by firearm licensees (importers, manufacturers or dealers) to determine whether individuals are qualified to receive or possess firearms and ammunition.

DISCLOSURE: Mandatory for all personnel who are required to certify. Failure to provide the information may result in (1) (military only) the imposition of criminal or administrative penalties for failing to obey a lawful order, and (2) (civilian only) the imposition of administrative penalties, to include removal from Federal service. However, neither your answers nor information or evidence gained by reason of your answers can be used against you in any criminal prosecution for a violation of Title 18, United States Code, Section 922(g)(9), including (military only) prosecutions under the Uniform Code of Military Justice, based on a violation of Section 922(g)(9), for conduct which occurred prior to the completion of this form. The answers you furnish and any information resulting therefrom, however, may be used against you in a criminal or administrative proceedings if you knowingly and willfully provide false statements or information.

SECTION I - INSTRUCTIONS

An amendment to the Gun Control Act of 1968 (18 U.S.C. 922) makes it a felony for anyone who has been convicted of a misdemeanor crime of domestic violence to ship, transport, possess, or receive firearms or ammunition. It is also a felony for any person to sell or otherwise dispose of a firearm to any person so convicted.

The Department of Defense has, by policy, expanded the prohibitions contained in Title 18 Section 922(g)(9) to those military or civilian personnel who have felony convictions for crimes of domestic violence. Convictions of crimes of domestic violence do not include summary court-martial convictions, the imposition of nonjudicial punishment (Article 15, UCMJ), or deferred prosecutions (or similar alternative dispositions) in civilian courts. Furthermore, a person shall not be considered as having committed a "crime of domestic violence" for purposes of the firearms restriction of the Gun Control Act unless all of the following elements are present:

(1) the person was convicted of a crime;

(2) the offense has as its factual basis the use or attempted use of physical force, or threatened use of a deadly weapon;

(3) the convicted offender was at the time of the offense:
- (a) a current or former spouse, parent or guardian of the victim,
- (b) a person with whom the victim shared a child in common,
- (c) a person who was cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or
- (d) a person who was similarly situated to a spouse, parent, or guardian of the victim;

(4) the convicted offender was represented by counsel, or knowingly and intelligently waived the right to counsel;

(5) if entitled to have the case tried by jury, the case was actually tried by jury or the person knowingly and intelligently waived the right to have the case tried by jury;

(6) the conviction has not been expunged or set aside, or the convicted offender has not been pardoned for the offense or had civil rights restored, unless the pardon, expungement, or restoration of civil rights provides that the person may not ship, transport, possess or receive firearms.

If you have ever received a domestic violence conviction: (1) you may not possess any firearm or ammunition; and (2) you must return any Government-issued firearm or ammunition to your commander or immediate supervisor; and (3) you must take steps to relinquish possession of any privately owned firearms or ammunition. Furthermore, any previously issued authorization to possess a firearm or ammunition is revoked.

If you have any questions, or you are uncertain if you have such a conviction, you may wish to contact a legal assistance attorney, if eligible, or a private attorney, at your own expense.

SECTION II - QUALIFICATION INQUIRY *(Complete and return to your commander or immediate supervisor within 10 days of receipt)*

1. HAVE YOU EVER BEEN CONVICTED OF A CRIME OF DOMESTIC VIOLENCE AS DESCRIBED ABOVE: *(Initial and date)*

YES	NO JTB 20220814	I DON'T KNOW *(Provide explanation on reverse)*

2. IF YOU ANSWERED "YES" TO THE FIRST QUESTION, PROVIDE THE FOLLOWING INFORMATION WITH RESPECT TO THE CONVICTION:

a. COURT/JURISDICTION	b. DOCKET/CASE NUMBER
c. STATUTE/CHARGE	**d. DATE SENTENCED** *(YYYYMMDD)*

3. CERTIFICATION. I hereby certify that, to the best of my information and belief, all of the information provided by me is true, correct, complete, and made in good faith. I understand that false or fraudulent information provided herein may be grounds for criminal and/or administrative proceedings, to include (if civilian) adverse action, up to and including removal, and (if military) disciplinary action under the Uniform Code of Military Justice. I further understand that I have a continuing obligation to inform my Commander or Supervisor should I be convicted of a crime of domestic violence in the future.

a. NAME *(Last, First, Middle Initial)*	b. RANK/GRADE	c. EDIPI
BOPP. JESSE, T	CPL / E4	[redacted]
d. ORGANIZATION	**e. SIGNATURE**	**f. DATE SIGNED** *(YYYYMMDD)*
2D BATTALION, 6TH MARINES	[redacted]	20220814

DD FORM 2760, DEC 2002

AE XXX

LOCAL RECORDS CHECK (1600)

NAVMC 10482 (REV. 3-93) (EF) (Previous editions will be used)

SN: 0000-00-005-2402 U/I: 50 SH PER PG | DATE: 20221213

NAME (Last, First, Middle)	EDIPI	GRADE	MOS
BOPP, JESSE, T	[redacted]	E4	2171

ORGANIZATION: 2d Battalion, 6th Marines

DATE OF BIRTH	PLACE OF BIRTH	CITIZENSHIP
[redacted]	BROOKFIELD, WI	U.S.A.

NAME OF SPOUSE (Last, First, Middle)	DATE OF BIRTH	PLACE OF BIRTH	CITIZENSHIP

CLEARANCE STATUS (Degree)	BASIS	COMPLETED BY (Agency)	DATE COMPLETED
SECRET			

PURPOSE FOR REQUESTING LOCAL RECORDS SCREENING

AA&E SCREENING

RESULTS OF COMMAND SCREENING

RECORDS CHECKED:

☐ OQR/SRB ☐ HEALTH RECORD ☐ UNIT PUNISHMENT LOG BOOK

RECORDS SCREENED BY THE COMMAND REFLECT (*Check appropriate block*):

☐ NO DEROGATORY ☐ FOLLOWING INFORMATION:

M.P. RECORDS CHECK

Date 19 OCT 22 | Yes | (No)

Remarks: No Records Found

[redacted]

Herman Oden JR, PMO Admin

[redacted]

(Signature of Requesting Official)

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AE XXX

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UNITED STATES MARINE CORPS
2D BATTALION 6TH MARINES
2D MARINE DIVISION
FLEET MARINE FORCE
PSC BOX 20099
CAMP LEJEUNE NC 28542-0099

IN REPLY REFER TO:
8000
ORD

From: Arms, Ammunition, and Explosive (AA&E) Officer
To: Personnel Officer

Subj: MCTMS ENTRIES FOR AA&E SCREENINGS

Ref: (a) MCO P4400.150
(b) MCO 5530.14
(C) MARADMIN 085/16 182315ZFEB 16

1. Per the references, the below listed personnel have been screened and found qualified for duties involving Arms, Ammunition, and Explosives:

NAME	RANK	EDIPI
ROBERSON, KEVIN M.	SSGT	[redacted]
RYSAVY, TYLER	SGT	
ACEBO, JOSHUA	CPL	
CARAVEAU, TAREN	CPL	
EVANS, MICHEAL	CPL	
GRIMISON, JOSHUA	CPL	
BOPP, JESSE	LCPL	
ROJASMILLER, KRISTIAN H.	LCPL	

2. It is requested that the individuals listed above have a Type Transaction Code (TTC) 483, Arms AA&E screen entered into the Marine Corps Total Force System (MCTFS). Provide a copy of the certified unit diary printout to the Arms, Ammunition, and Explosive Officer.

3. Point of contact for this matter is First Lieutenant Taylor L. Roberson at (910-451-1577).

[redacted]

T. L. ROBERSON

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UNITED STATES MARINE CORPS
2D BATTALION 6TH MARINES
2D MARINE DIVISION
FLEET MARINE FORCE
PSC BOX 20099
CAMP LEJEUNE NC 28542-0099

IN REPLY REFER TO:
5530
ORD

From: Arms, Ammunition, and Explosive (AA&E) Officer
To: Medical Officer

Subj: MEDICAL SCREENING FOR AA&E DUTIES ICO CORPORAL JESSE T. BOPP [redacted] USMC

Ref: (a) MCO 5530.14A

1. Please screen the above individual's health record for assignment to Arms, Ammunition, and Explosive (AA&E) duty. A positive response to any of the questions below may disqualify the individual from assignment to working with AA&E in the performance of his/her duties.

a. Does the Marine have history of alcohol abuse?
Yes ____ No X.

b. Has the Marine been the subject of psychiatric evaluation?
Yes ____ No X.

c. Has the Marine been treated for suicidal tendencies?
Yes ____ No X.

d. Has the Marine been treated for depression?
Yes ____ No X.

e. Has the Marine been treated for stress?
Yes ____ No X.

f. Has the Marine been treated for drug abuse?
Yes ____ No X.

g. Is the Marine under any permanent medication that might degrade his/her mental capacity?
Yes ____ No X.

2. The above Marine's Medical Record Book has been reviewed.

[redacted] Lindsay E. Murphy, MD
LT, MC, USN
NPI: [redacted]

MEDICAL OFFICER SIGNATURE AND DATE

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AE XXX
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D-5

UNITED STATES MARINE CORPS
2D BATTALION, 6TH MARINES
2D MARINE DIVISION
PSC BOX 20099
CAMP LEJEUNE, NC 28542-0099

5220
S-2
9 Sep 22

From: Security Assistant
To: Manpower Management Enlisted Assignment

Subj: CERTIFICATION OF SECURITY CLEARANCE IN CASE OF CORPORAL BOPP, JESSE T. [redacted] USMC

1. This letter is issued to certify the subject's security clearance was adjudicated by the Department of the Navy, Central Adjudication Facility, Washington D.C. and may be used to verify your security eligibility.

2. The subject's service records indicate the following pertinent details regarding your security clearance:

Open Investigation: N/A

PSQ sent date: N/A

Investigation Summary: Tier 3 from OPM, Closed 2018-08-08.

Adjudication Summary: PSI Adjudication completed with a favorable determination eligibility of Secret on 2018-08-20 from DoD CAF.

3. Point of contact is 2d Battalion, 6th Marine Regiment S-2 at (910) 450-8533.

[redacted]
R. L. WOLD

AE XXX
Pg 7 of 35
000851

M4 RIFLE LOADING AND CLEARING PROCEDURES PRACTICAL APPLICATION

ALL PROCEDURES WILL BE DONE WITH EXTREME CARE AND ATTENTION TO DETAIL.

LOADING PROCEDURES	YES	NO
1. Successfully placed weapon on safe. Pulled charging handle fully rearward and checked chamber. Showed clear.	✓	
2. Released the charging handle. Successfully inserted magazine and pushed upward until magazine catch engages.	✓	
3. Successfully pointed the weapon into the clearing barrel, with the weapon on safe. Successfully racked a round pulling charging handle to the rear and releasing.	✓	

CLEARING PROCEDURES	YES	NO
1. Successfully ensured rifle was on safe. Pointed directly into the clearing barrel.	✓	
2. Successfully depressed the magazine catch and removed the magazine.	✓	
3. Successfully locked the bolt to the rear while observing the round ejected from the chamber.	✓	
4. Successfully inspected the receiver and chamber to show clear.	✓	
5. Pressed the bolt catch and dry fired the weapon into the clearing barrel. Placed the weapon on safe and locked the bolt to the rear. Closed ejection port cover. Returned rifle to the appropriate rack storage space.	✓	

CPL BOPP JESSE [redacted] 20220816
PRINTED NAME OF MARINE BEING TESTED SIGNATURE DATE

Sgt Kysauy Tyler [redacted] 20220816
PRINTED NAME OF TESTER SIGNATURE DATE

AE XXX
000852
Pg 8 of 35

M9 PISTOL LOADING AND CLEARING PROCEDURES
PRACTICAL APPLICATION

ALL PROCEDURES WILL BE DONE WITH EXTREME CARE AND ATTENTION TO DETAIL.

LOADING PROCEDURES	YES	NO
1. Successfully loaded two magazines with 15 rounds.	✓	
2. Successfully removed pistol from holster, placed it on safe and locked the slide to the rear. Visually and physically inspected the chamber and magazine well for ammunition. Once confirmed clear, slowly released the slide.	✓	
3. Successfully pointed the weapon into the clearing barrel, with the weapon on safe. Inserted one fully loaded magazine. Chambered a round using the "Sling Shot" method.	✓	
4. Successfully placed the pistol in the holster and it was on safe. Placed the second fully loaded magazine into the ammunition pouch.	✓	

CLEARING PROCEDURES	YES	NO
1. Successfully removed the weapon from the holster and ensured it was on safe. Pointed directly into the clearing barrel.	✓	
2. Successfully depressed the magazine catch and removed the magazine.	✓	
3. Successfully locked the slide to the rear while catching the round ejected from the chamber.	✓	
4. Successfully inspected the chamber and magazine well to show clear. Released the slide and dry fired the weapon into the clearing barrel. Placed the weapon on safe and locked the slide to the rear. Returned the pistol to the appropriate rack/storage space.	✓	

PRINTED NAME OF MARINE BEING TESTED	SIGNATURE	DATE
Cpl Hollywood	[redacted]	20220816
PRINTED NAME OF TESTER	**SIGNATURE**	**DATE**
Sgt Ryscavy Tyler	[redacted]	20220816

STATEMENT OF UNDERSTANDING

"I understand that my behavior on duty as well as off duty is expected to reflect mature, stable judgment and that I may be removed from my duties involving control of arms, ammunition and explosives, or other administrative action taken, if my behavior does not reflect high standards. I further understand that serious harm can come from my failure to properly carry out my duties. I am aware that my improper actions or failure to carry out my duties may result in criminal prosecution, fines, and imprisonment. I understand and accept the responsibility to safeguard arms, ammunition and/or explosives."

INITIAL SCREENING

SIGN: [redacted] DATE: 20221205

ANNUAL RE-SCREEN

SIGN: [redacted] DATE: 20221205

SIGN: _____ DATE: _____

SIGN: _____ DATE: _____

SIGN: _____ DATE: _____

SIGN: _____ DATE: _____

SIGN: _____ DATE: _____

CERTIFICATION OF ANNUAL ARMORY CUSTODIAN TRAINING

The below listed Marine has been trained in the following areas prior to assuming duties as an armory custodian:

1. AA&E Reporting Requirements
2. Key AA&E Billets
3. Access Control
4. Communications
5. Duress Procedures
6. Open/Closing Procedures
7. AA&E Storage
8. Transportation of AA&E
9. Issue/Recovery Procedures
10. Sight Counts
11. Privately Owned Weapons
12. Stock List 3 Management
13. Preventative Maintenance
14. Command Policies/Unit Directives

MARINE TRAINED:

CPL BOPP [redacted]

RANK NAME LAST 4/MOS

MARINE CONDUCTING TRAINING/REFRESHER TRAINING:

PRINT/SIGN: LCPL Metcalf [redacted] DATE: _____

PRINT/SIGN: _____ DATE: _____

PRINT/SIGN: _____ DATE: _____

PRINT/SIGN: _____ DATE: _____

PRINT/SIGN: _____ DATE: _____

PRINT/SIGN: _____ DATE: _____

ENCLOSURE 2

Accused's Cabela's Firearm Safety Form

Bass Pro Shops Cabela's

TTSN#: 0418-114503

Buy Responsibly. Use Safely. Store Securely.

Thank you for choosing Bass Pro Shops/Cabela's for your firearm purchase. With proper care and maintenance, it should give you a lifetime of safe and enjoyable use.

To ensure that you get the most out of your new firearm: Please read and follow all manufacturer's directions and follow all safety precautions. We strongly recommend that you read the owner's manual and all safety materials before operating the firearm. We also recommend that you and your family attend a firearm safety course.

The Fundamentals of Firearms Safety

1. ALWAYS keep the muzzle pointed in a safe direction.
2. Treat EVERY firearm as if it were loaded and know how to check that it isn't.
3. ALWAYS keep the firearm's action open until you are actually ready to hunt or shoot.
4. Firearms and ammunition should be stored and locked separately.
5. Many states and municipalities have laws regulating the storage of firearms and ammunition. Make sure that you know and follow your local laws.
6. Do NOT use alcohol and/or other drugs at any time while handling a firearm.
7. Be sure the barrel and action are clear of obstructions and that the ammunition is suitable for the firearm.
8. Be sure of your target and beyond PRIOR to firing and never shoot at any surface that could cause a ricochet.
9. Keep your finger off the trigger and out of the trigger guard until you are ready to fire and NEVER point at or allow the muzzle to cover anything you don't intend to shoot.
10. NEVER climb a fence, tree, or jump a ditch with a loaded firearm.

Customer Safety Checklist (Check mark)

[√] Customer understands loading, unloading and safe operation of the firearm

[√] Customer has received warranty and manual (enclosed in carton) [ ] **N/A** Used Firearm, no manual available, refer to Used Firearm Sales Form.

[√] Trigger lock/shield installed on firearm, customer provided with key, instruction sheet, explained removal/installation instructions. (Customers at CA locations are provided a DOJ approved trigger lock)

Note: All firearm sales are final. Damaged or defective firearms must be returned to the manufacturer for warranty repair. Bass Pro Shops/Cabela's will not exchange damaged or defective firearms. We will assist customers with arrangements for warranty repairs to the manufacturer. We must receive a Proceed status on the background check before we are able to transfer any firearm.

Again, thank you for your purchase, and we hope you enjoy the safe use of your firearm. I verify the above information has been covered completely:

Print Customer Name: JESSE THOMAS BOPP Date: 07/14/2021

Customer Signature: [redacted]

Print 2 forms
1 Copy to the Customer and 1 copy to file
Retention: copies must be maintained for 20 yrs.

AE XXX

ENCLOSURE (C)

EXHIBIT (94)

ENCLOSURE 3

Accused's Use of Force Acknowledgement

INDIVIDUAL'S ACKNOWLEDGEMENT OF SPECIFIC INSTRUCTIONS FOR ARMED SECURITY AND LAW ENFORCEMENT PERSONNEL REGARDING THE USE OF FORCE

Name (Last, First, M. I.)	Rank	EDIPI(Last 4)	Date
Bopp, Jesse, T	Cpl	[redacted]	10[illegible]14

1. Inherent Right of Self Defense. Unit commanders always retain the inherent right and obligation to exercise unit self-defense in response to a hostile act or demonstrated hostile intent. Unless otherwise directed by a unit commander as detailed below, I may :

a. JTD Exercise individual self-defense in response to a hostile act or demonstrated hostile act.

b. JTD However, I understand that when I am assigned and acting as a part of a unit, my individual self-defense should be considered a subset of unit self-defense. As such, my unit commander may limit my individual inherent right of self-defense.

2. De-Escalation and the Use of Non-Deadly Force. I understand that:

a. JTD When time and circumstances permit, the threatening force should be warned and given the opportunity to withdraw or cease threatening action.

b. JTD Normally, force is to be used only as a last resort, and the force should be the minimum necessary. If force is required, a non-deadly force is authorized and may be used to control a situation and accomplish the mission, or to provide self-defense of DOD force, defense of non-DOD persons in the vicinity if directly related to the assigned mission, or in defense of the protected property, when doing so is reasonable under the circumstances.

3. The use of Deadly Force.

a. JTD When DOD unit commanders reasonably believe that a person poses an imminent thereat of death or serious bodily harm to DOD forces. Unit self-defense includes the defense of other DOD forces in the vicinity.

b. JTD In defense of non-DOD persons in the vicinity, when directly related to the assigned mission.

c. JTD When deadly force resonably appears to be necessary to prevent the actual theft or sabotage of properly designated assets vital to national security.

d. JTD When deadly force reasonably appears to be necessary to prevent the actual theft or sabotage of inherently dangerous property (i.e., explosives, weapons, ammunition, etc.).

e. JTD When deadly force reasonably appears to be necessary to prevent the sabotage of national critical infrastruture. For the purpose of DOD operations, "national critical infrastructure" is defined as President-designated public utilities, or similar critical infrastruture, vital to public, health and safety, the damage to which the President determines would create an imminent threat of death or serious bodily harm.

4. Additionaly, when directly related to the assigned mission, deadly force is authorized under the following cicumstances:

a. JTB When deadly force reasonably appears to be necessary to prevent the commission of a serious offense that involves imminent threat of death or serious bodily harm (for example, setting fire to an inhabited dwelling or sniping), including the defense of other persons, where deadly force is directed against the person threatening to commit the offense. Examples include murder, armed robbery, and aggravated assault.

b. JTB When deadly force reasonably appears to be necessary to prevent the escape of a prisoner, provided there is a probable cause to believe that such person(s) have committed or attempted to commit a serious offense, that is, one that involves imminent threat of death or serious bodily harm, would pose an imminent threat of death or serious bodily harm to DOD forces or other in the vicinity.

c. JTB When deadly force reasonably appears necessary to arrest or apprehend a person who, there is probable cause to believe, has commited a serious offense (as indicated in paragraph 3, above).

5. Additional Specific Instructions:

a. JTB I am prohibited from firing warning shots.

b. JTB I will remove my pistol from holster only when:

(1) The use of deadly force is imminent, or to affect the apprehension of a suspect I belive to be armed or dangerous, or to gain control of a dangerous situation.

(2) Ordered to do so by competent authority.

(3) Returning it to storage.

(4) Cleaning it in an authroized area.

c. JTB I will show due regard for safety of innocent bystanders when using force.

6. JTB I will not point any firearm at any person, except:

a. To gain control of a situation.

b. When I intend to use deadly force.

c. During on-duty reaction drill, only after I have checked the firearm and it has also been checked by my supervisor to ensure no rounds are in the weapon.

7. JTB If I chamber a round in a rifle or shotgun, or remove my pistol from its holster, proper notificiations will be made and a Statement of Force form completed.

8. JTB When clearing a firearm, I will follow current policies and procedures pertaining to firearms handling, clearing, and safety.

a. No weapon will be cleared without a supervisor (NCO or above) present and clearing will be accomplished only in the designated area (i.e., clearing barrel).

b. When drawing a weapon from the armory/arms room, rounds will be drawn after ensuring the weapon is clear.

c. When returning a weapon to the armory/arms room, rounds will always be properly accounted for and turned in prior to clearing the weapon, unless a round has been chambered.

d. I will report any violation of these policies or procedures immediately to the proper authority.

9. JJB I am prohibited from using a privately owned firearm or ammunition on duty.

10. JJB During training, exercises and testing, I will check my firearm and have it double checked by another person, to ensure that no live rounds are in the weapon and that there is no magazine inserted in the weapon.

11. JJB I will comply with these principles when using non-lethal weapons or techniques in such a manner that could cause death or serious bodily harm.

12. Acknowledgement. I have been instructed on the use of deadly force and acknowledge that I understand and will comply with the basic rules for the use of deadly force and weapons safety. I acknowledge that failure to comply with the basic rules for the use of force and weapons safety may result in administrative, disciplinary, and/or penalties.

20220816
Date

CPL BOPP, JESSE
Rank/Printed Name

[redacted]

ENCLOSURE 4

Accused's Armory Statement of Understanding

STATEMENT OF UNDERSTANDING

"I understand the importance of working in an armory. The armory compound and all bays are designated as a level two restricted area. My duties involve the safety, security, and accountability of arms, ammunition and explosives. My actions will be guided by the orders and directives governing armory procedures and the control of arms, ammunition, and explosives. I will familiarize myself with those orders and directives. Specifically, I have read and understand Chapter 8 of Marine Corps Order 5530.14A, Division Order 8000.2D, and Regimental Order 8000.1A. I understand that failing to follow and enforce these orders will lead to non-judicial punishment. Knowing that, I accept the responsibility of working in the Regimental Armory. I will follow and enforce these orders."

Print: CPL Bopp, Jesse

Sign [redacted]

Date: 20221205

AE XXX

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ENCLOSURE 5

Accused running away from the scene

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION 19OCT23

CONTROL: 18OCT23-CALE-00856-7HMA

S/BOPP, JESSE THOMAS/CPL USMC
M/W/MEE4/S[redacted]6/14APR00/BROOKFIELD, WI

RESULTS OF INITIAL INTERVIEW OF CPL BENJAMIN HOUSE, USMC

1. On 18Oct23, Reporting Agent (RA) and Participating Agent (PA) USMC Criminal Investigative Division (CID) Agent Jacob WILLIAMS, USMC conducted an initial interview of Cpl Benjamin HOUSE, USMC, 2nd Battalion (2d Bn), 6th Marine Regiment (6th Marines), 2nd Marine Division (2d MarDiv), Camp Lejeune, NC (CLNC). The interview was conducted in the 2nd deck lounge room of HP 255, CLNC. The interview was not audio or video recorded due to immediate concern of trying to locate S/BOPP and the ongoing concern for public safety. Cpl HOUSE was advised a more detailed interview would be completed at NCISRA CLNC in the near future. As background, Cpl HOUSE was identified as the roommate of V/SCHWENK, and was also described as a witness to the shooting by PA WILLIAMS. At the time of the interview, S/BOPP's whereabouts were unknown and there was an active search for him.

2. Cpl HOUSE confirmed he lived with V/SCHWENK in HP 255, Room 317. Cpl HOUSE stated S/BOPP was assigned to his same unit, and they were next door neighbors. S/BOPP's address was HP 255, Room 319. Cpl HOUSE stated S/BOPP had come into Room 317 and was apparently intoxicated. Cpl HOUSE elaborated that he was aware S/BOPP had consumed at least four (4) "beat box" 12% alcohol malt beverage drinks, and had also consumed an unknown amount of "Twisted Tea" alcoholic beverages. Cpl HOUSE indicated S/BOPP had tried to obtain food from him, which Cpl HOUSE declined to provide. Cpl HOUSE stated S/BOPP "whipped out" a pistol and aimed it at his own head. Cpl HOUSE stated S/BOPP had a history of making "suicidal" jokes. Cpl HOUSE stated S/BOPP then pointed the pistol at V/SCHWENK and fired the weapon one (1) time. Cpl HOUSE stated V/SCHWENK was struck by the bullet fired from the pistol. Cpl HOUSE stated S/BOPP "screamed," dropped the pistol on to the floor of the barracks room, and fled out of the room.

3. Cpl HOUSE stated he was not certain what clothing S/BOPP was wearing; however, Cpl HOUSE stated S/BOPP normally wore a black in color shirt and sweatpants. Cpl HOUSE stated he was unaware of S/BOPP's whereabouts. Cpl HOUSE denied knowing where S/BOPP would go on base. Cpl HOUSE indicated S/BOPP does have a close friend, who resides in the city limits of Jacksonville, NC. Cpl HOUSE identified the friend as Joshua "Grim" GRIMISON, phone number 772-646-8977, address of 117 Wedgewood Dr., Jacksonville, NC (NFI). Cpl HOUSE stated he had already attempted to call GRIMISON to ascertain S/BOPP's whereabouts; however, GRIMISON had not answered the phone. While speaking with RA, Cpl HOUSE received a phone call from GRIMISON. Cpl HOUSE placed the cell phone on the "speaker phone" setting when he answered the phone call. Cpl HOUSE spoke with GRIMISON and stated

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ACCESS HERETO. CONTENTS MAY NOT BE DISCLOSED TO THE PARTY(S) CONCERNED
WITHOUT SPECIFIC AUTHORIZATION FROM THE NAVAL CRIMINAL INVESTIGATIVE SERVICE

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION 22OCT23

CONTROL: 18OCT23-CALE-00856-7HMA

S/BOPP, JESSE THOMAS/CPL USMC
M/W/MEE4/S/[redacted]/14APR00/BROOKFIELD, WI

RESULTS OF SECOND INTERVIEW OF CPL BENJAMIN HOUSE, USMC

1. On 18Oct23, Reporting Agent (RA) and SSA Joseph DICOSTANZO conducted an interview of V/SCHWENK's roommate, Cpl Benjamin HOUSE, USMC, 2nd Battalion (2d Bn), 6th Marine Regiment (6th Marines), 2nd Marine Division (2d MarDiv), Camp Lejeune, NC (CLNC), regarding the captioned investigation. The following is a summary of the interview, which was recorded in its entirety, and is not necessarily described in order it was discussed. The recording contains a verbatim account of the interview, which was subsequently burned onto a DVD-R. A copy of the DVD-R containing the audio/video recording of Cpl HOUSE's interview is appended to this report as Enclosure (A).

2. Cpl HOUSE said he got off work around 6:00 pm on 18Oct23 and V/SCHWENK was playing video games in his "civies" already; therefore, V/SCHWENK could have been back in the room for a while. Cpl HOUSE stated he went to the commissary to get food, then went to METCALF's (NFI) room where S/BOPP was present. Cpl HOUSE asked S/BOPP to borrow his air fryer and Cpl HOUSE retrieved the air fryer from S/BOPP's room, Room 319. Approximately ten (10) minutes later, Cpl HOUSE said his food was done and S/BOPP came into his room. Cpl HOUSE described S/BOPP as "extremely drunk" and said S/BOPP drank about four (4) "beatbox" 12% alcohol beverages and then "killed" some Twisted Teas. Cpl HOUSE said S/BOPP had his firearm tucked in his arm when he came into the room and S/BOPP was left-handed. Cpl HOUSE recalled S/BOPP trying a bite of his food and then S/BOPP made two (2) or three (3) suicidal "jokes" on himself while playing around with his firearm. Cpl HOUSE stated S/BOPP pointed the firearm at his own head with his finger on the trigger and then pointed the firearm at V/SCHWENK's head. Cpl HOUSE said S/BOPP was standing just inside the doorway when he pointed the firearm at V/SCHWENK's head. Cpl HOUSE recalled V/SCHWENK saying "whoa" and then "scooted back a little bit" in his chair. V/SCHWENK was reported to be at his desk playing video games. Cpl HOUSE stated a second later, S/BOPP pulled the trigger with a round in the chamber. Cpl HOUSE said S/BOPP was approximately one (1) foot away from V/SCHWENK when he pulled the trigger. Cpl HOUSE did not observe S/BOPP drop the firearm, however, Cpl HOUSE recalled a verbal scream from S/BOPP saying, "oh fuck." Cpl HOUSE said S/BOPP ran left out of the room, opposite of S/BOPP's car, after he pulled the trigger. Cpl HOUSE recalled going to METCALF's room where he said "yo, fucking call 911 right now, V/SCHWENK's been shot." Cpl HOUSE said he told others (NFI) to "call 911" and then he went to grab duty (NFI). Cpl HOUSE stated he and duty walked up and METCALF was holding V/SCHWENK. Cpl HOUSE thought S/BOPP was wearing sweatpants and a black shirt; however, Cpl HOUSE was told S/BOPP was in his underwear. Cpl HOUSE said S/BOPP usually wore black vans.

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WITHOUT SPECIFIC AUTHORIZATION FROM THE [illegible] ICE

AE XXX ~~EXHIBIT (3~~)
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ENCLOSURE 6

Accused's statement to LCpl A.D.

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

CONTROL:18OCT23-CALE-00856-7HMA **25OCT23**

7. The interview LCpl DICKINSON advised "he" made a joke stating "every day I get closer to EAOSing I'm itching to kill someone." LCpl DICKINSON advised this was a normal type of joke for "him" and "he" has a dark humor. It should be noted, on 17Nov23, RA contacted LCpl DICKINSON to clarify who "he" was; LCpl DICKINSON advised "he" was S/BOPP.

8. LCpl DICKINSON reported he never observed the firearm with ammunition in the chamber. LCpl DICKINSON did not know where S/BOPP was keeping the firearm, but he was not surprised he had one. LCpl DICKINSON knows individuals (NFI) have weapons in the barracks even though they are not suppose to.

9. LCpl DICKINSON did not observe S/BOPP mishandle weapons at work. LCpl DICKINSON advised S/BOPP handled more optics than weapons.

10. Subsequent to the interview LCpl DICKINSON signed a Permissive Authorization for Search and Seizure for a sample of his deoxyribonucleic acid (DNA) and major case prints. Enclosure (B) pertains. LCpl DICKINSON's DNA was collected via a buccal sample utilizing two Cap-Shure swabs. LCpl DICKINSON's major case prints were collected by RA. Both his DNA and major case prints were submitted to NCISRA Camp Lejeune Evidence under the Log Number 409-23.

ENCLOSURE(S)
(A) DVD Containing Interview of LCpl DICKINSON/25OCT23
(B) PASS for LCpl DICKINSON's DNA and Major Case Prints/25OCT23

REPORTED BY: MEGAN ROBBINS, Special Agent
OFFICE: RESIDENT AGENCY CAMP LEJEUNE

PAGE 3 LAST JD V2 LNN

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ENCLOSURE 7

Accused's handling of firearms per Corporal T.C.

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION 27OCT23

CONTROL: 18OCT23-CALE-00856-7HMA

S/BOPP, JESSE THOMAS/CPL USMC
M/W/MEE4/S/[redacted]5/14APR00/BROOKFIELD, WI

RESULTS OF SCREENING INTERVIEW OF CPL TAREN CARAVEAU, USMC

1. On 26OCT23, Reporting Agent (RA) conducted a screening interview of Cpl Taren CARAVEAU, USMC, 2nd Battalion (2d Bn), 6th Marine Regiment (6th Marines), 2nd Marine Division (2d MarDiv), Camp Lejeune, NC (CLNC), regarding his knowledge of the captioned investigation. The interview took place at the Command Building for 2d Bn, 6th Marines, located at (HP) 213, CLNC.

2. Cpl CARAVEAU stated Marines in the armory are very proficient in weapon systems and clearing procedures, due to the extensive training they receive. Marines in the armory are taught to always properly clear their weapon systems prior to returning it to the armory. Cpl CARAVEAU explained Marines are trained to take their weapons to the clearing barrel and begin the clearing procedure by releasing the magazine and pulling the slide back to the rear, to release the ammo in the chamber. Marines are taught to activate the safety mechanism on the weapon and to keep the slide pulled back to the rear to show the weapon is safe. Cpl CARAVEAU said Marines then carry the weapon above their shoulder with the muzzle pointing up and wait in line in this same position to return the weapon to the armory. Marines must turn in the safe and empty weapon with the butt stock of the weapon facing them and the barrel towards the armory window. During this entire procedure, Marines are taught to keep their finger off of the trigger. All Marines must follow this safety procedure per policy when returning a weapon to the armory.

3. In April 2021, Cpl CARAVEAU stated he first met S/BOPP when Cpl CARAVEAU began working in the armory. S/BOPP had already been working in the armory as an Optics Technician, and was there prior to Cpl CARAVEAU's arrival. S/BOPP and Cpl CARAVEAU resided in the same barracks building until approximately September 2022, when Cpl CARAVEAU moved off-base with his fiancé (NFI). Cpl CARAVEAU described his relationship with S/BOPP as "close," as they frequently spent time together at work and outside of work. S/BOPP taught classes on optics to junior Marines and was proficient with weapon systems.

4. On approximately two to three occasions, Cpl CARAVEAU witnessed S/BOPP be "lazy" when handling his weapon. S/BOPP would clear his pistol and place it back into his holster instead of over his shoulder. Cpl CARAVEAU theorized it might have been because S/BOPP had an injured shoulder; however, he couldn't remember which shoulder was injured. Cpl CARAVEAU was not concerned since he knew S/BOPP was very proficient in weapon systems; however, if a

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

CONTROL:18OCT23-CALE-00856-7HMA **27OCT23**

new Marine would have done the same thing, Cpl CARAVEAU would have corrected the Marine. Cpl CARAVEAU stated he heard S/BOPP state "I am tired of working here, I will just do it," meaning he would shoot himself. Cpl CARAVEAU was not concerned by S/BOPP's comments, because he knew S/BOPP was just tired of being in the U.S. Marine Corps and was getting out soon. Cpl CARAVEAU never witness S/BOPP put a weapon to his head.

5. In approximately February 2023 or March 2023, V/SCHWENK began working at the armory. Cpl CARAVEAU did not interact much with V/SCHWENK. S/BOPP and V/SCHWENK worked together, but were not close friends. Cpl CARAVEAU stated he did not know of any issues between S/BOPP and V/SCHWENK.

6. On 18OCT23, Cpl CARAVEAU left work between approximately 1530 and 1630. S/BOPP was still working when he left. Cpl CARAVEAU believed S/BOPP played video games and drank beer when he got off of work, but he had no first hand knowledge of this. He described S/BOPP as a person who drank more alcohol than most other people. Cpl CARAVEAU was "shocked" when he heard about the incident since "that is not BOPP." Cpl CARAVEAU stated that S/BOPP and "grim," known as Cpl Joshua GRIMISON, USMC, 2d Bn, 6th Marines, 2d MarDiv, CLNC, were "best friends."

7. Cpl CARAVEAU had no additional relevant information and the interview was terminated.

REPORTED BY: ERIN TAYLOR CUELLAR, Special Agent
OFFICE: RESIDENT AGENCY CAMP LEJEUNE

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ENCLOSURE 8

Accused's handling of firearms per
Sergeant T.R. and Lance Corporal K.RM.

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION 01NOV23

CONTROL: 18OCT23-CALE-00856-7HMA

S/BOPP, JESSE THOMAS/CPL USMC
M/W/MEE4/S/[redacted]/14APR00/BROOKFIELD, WI

RESULTS OF INTERVIEW OF SGT TYLER RYSAVY, USMC

1. On 01Nov23, Reporting Agent (RA) conducted an interview of Sgt Tyler RYSAVY, USMC, Expeditionary Operations Training Group (EOTG), Second Marine Expeditionary Force (II MEF), Camp Lejeune, NC (CLNC), regarding the captioned investigation.

2. Sgt RYSAVY deployed with S/BOPP from approximately Mar-Oct21 on the 22nd Marine Expeditionary Unit (MEU) aboard LPD-24 (USS ARLINGTON). Sgt RYSAVY said he, S/BOPP, and ROJASMILLER (NFI), worked with weapons and optics that required maintenance. Sgt RYSAVY stated S/BOPP was familiar with weapons and optics. Sgt RYSAVY said he and S/BOPP would play video games and spades on deployment. In regard to S/BOPP's alcohol use on deployment, Sgt RYSAVY described S/BOPP as "any other LCpl that turned 21 in the barracks" and if there was an opportunity to drink, S/BOPP would be there. Sgt RYSAVY said he had no knowledge of S/BOPP "blacking out" on deployment. According to Sgt RYSAVY, S/BOPP was seen for anxiety on deployment. Sgt RYSAVY recalled S/BOPP making suicidal jokes while on deployment; however, Sgt RYSAVY believed it was more directed towards the work culture and not literal. In addition, Sgt RYSAVY described a negligent discharge (ND) that happened on deployment. Sgt RYSAVY said MSgt ANTONIK (NFI), USMC, had an ND outside of the armory; Cpl Shane McDonald (NFI), USMC, was reportedly in the armory at the time of the ND. Sgt RYSAVY stated Sgt Thomas STRECKER, USMC, Okinawa, Japan, knew S/BOPP pretty well on deployment. Sgt STRECKER reportedly slept in the same aisle of bunks as S/BOPP.

3. Sgt RYSAVY said he left 2nd Battalion (2d Bn), 6th Marine Regiment (6th Marines), 2nd Marine Division (2d MarDiv), approximately three (3) to five (5) months ago. Sgt RYSAVY stated he never saw anyone point a weapon at their own head while in the armory. Sgt RYSAVY described him and S/BOPP as "fairly close." Sgt RYSAVY said he and S/BOPP went shooting in 2021 and S/BOPP was familiar with weapons. Sgt RYSAVY stated S/BOPP followed weapon fundamentals such as finger off the trigger. Sgt RYSAVY said when he heard about the incident involving S/BOPP, he was in shock and surprised. Sgt RYSAVY stated he could never see S/BOPP killing anyone.

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

CONTROL:18OCT23-CALE-00856-7HMA | **01NOV23**

REPORTED BY: TYLER J ENNIS, Special Agent
OFFICE: RESIDENT AGENCY CAMP LEJEUNE

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION 26OCT23

CONTROL: 18OCT23-CALE-00856-7HMA

S/BOPP, JESSE THOMAS/CPL USMC
M/W/MEE4/S/[redacted]6/14APR00/BROOKFIELD, WI

RESULTS OF SCREENING INTERVIEW OF LCPL KRISTIAN ROJASMILLER, USMC

1. On 26Oct23, Reporting Agent (RA) conducted a screening interview of LCpl Kristian ROJASMILLER, USMC, 2nd Battalion (2d Bn), 6th Marine Regiment (6th Marines), 2nd Marine Division (2d MarDiv), Camp Lejeune, NC (CLNC), regarding his knowledge of the captioned investigation. The interview took place at the Command Building for 2d Bn, 6th Marines, located at (HP) 213, CLNC.

2. LCpl ROJASMILLER said marines in the armory undergo a medical evaluation and a background check. LCpl ROJASMILLER said marines obtain a use of force certification and have to understand how to properly clear and load a firearm. LCpl ROJASMILLER stated while on duty, marines in the armory keep their M4 in "condition 3" and their M18 pistol in "condition 1"; for reference, "condition 1" is a round in the chamber. LCpl ROJASMILLER said when marines are relieved of duty, they clear out the firearm.

3. LCpl ROJASMILLER stated he knew V/SCHWENK for less than a year and he was his mentor. LCpl ROJASMILLER met S/BOPP at the schoolhouse in 2019 and they were friends. LCpl ROJASMILLER had no knowledge of S/BOPP mishandling firearms. LCpl ROJASMILLER never observed S/BOPP make any jokes involving a firearm. LCpl ROJASMILLER said S/BOPP was an optics tech, responsible for maintaining optics and prolonging the life of the optics. LCpl ROJASMILLER stated S/BOPP was the calibration NCO; however, his billet was more of a teaching responsibility since S/BOPP was getting out soon. LCpl ROJASMILLER said he and S/BOPP wanted to pass their knowledge onto more junior marines. LCpl ROJASMILLER stated S/BOPP taught classes on optics and calibration. LCpl ROJASMILLER said S/BOPP knew how to handle a weapon safely since they work in the armory.

4. LCpl ROJASMILLER described S/BOPP has an outdoor person who played a lot of video games outside of work. LCpl ROJASMILLER said S/BOPP did like to "indulge" in drinking. LCpl ROJASMILLER briefly mentioned S/BOPP's mental health and said S/BOPP tried to talk to someone on deployment in March 2022 (NFI).

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EXHIBIT (61)
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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

CONTROL:18OCT23-CALE-00856-7HMA **26OCT23**

REPORTED BY: TYLER J ENNIS, Special Agent
OFFICE: RESIDENT AGENCY CAMP LEJEUNE

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ENCLOSURE 9

Accused's negligent handling of the weapon per Lance Corporal A.D. and Lance Corporal B.M.

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION 26OCT23

CONTROL: 18OCT23-CALE-00856-7HMA

S/BOPP, JESSE THOMAS/CPL USMC
M/W/MEE4/S/[redacted]/14APR00/BROOKFIELD, WI

RESULTS OF SCREENING INTERVIEW OF LCPL KRISTIAN ROJASMILLER, USMC

1. On 26Oct23, Reporting Agent (RA) conducted a screening interview of LCpl Kristian ROJASMILLER, USMC, 2nd Battalion (2d Bn), 6th Marine Regiment (6th Marines), 2nd Marine Division (2d MarDiv), Camp Lejeune, NC (CLNC), regarding his knowledge of the captioned investigation. The interview took place at the Command Building for 2d Bn, 6th Marines, located at (HP) 213, CLNC.

2. LCpl ROJASMILLER said marines in the armory undergo a medical evaluation and a background check. LCpl ROJASMILLER said marines obtain a use of force certification and have to understand how to properly clear and load a firearm. LCpl ROJASMILLER stated while on duty, marines in the armory keep their M4 in "condition 3" and their M18 pistol in "condition 1"; for reference, "condition 1" is a round in the chamber. LCpl ROJASMILLER said when marines are relieved of duty, they clear out the firearm.

3. LCpl ROJASMILLER stated he knew V/SCHWENK for less than a year and he was his mentor. LCpl ROJASMILLER met S/BOPP at the schoolhouse in 2019 and they were friends. LCpl ROJASMILLER had no knowledge of S/BOPP mishandling firearms. LCpl ROJASMILLER never observed S/BOPP make any jokes involving a firearm. LCpl ROJASMILLER said S/BOPP was an optics tech, responsible for maintaining optics and prolonging the life of the optics. LCpl ROJASMILLER stated S/BOPP was the calibration NCO; however, his billet was more of a teaching responsibility since S/BOPP was getting out soon. LCpl ROJASMILLER said he and S/BOPP wanted to pass their knowledge onto more junior marines. LCpl ROJASMILLER stated S/BOPP taught classes on optics and calibration. LCpl ROJASMILLER said S/BOPP knew how to handle a weapon safely since they work in the armory.

4. LCpl ROJASMILLER described S/BOPP has an outdoor person who played a lot of video games outside of work. LCpl ROJASMILLER said S/BOPP did like to "indulge" in drinking. LCpl ROJASMILLER briefly mentioned S/BOPP's mental health and said S/BOPP tried to talk to someone on deployment in March 2022 (NFI).

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

CONTROL: 18OCT23-CALE-00856-7HMA | 26OCT23

REPORTED BY: TYLER J ENNIS, Special Agent
OFFICE: RESIDENT AGENCY CAMP LEJEUNE

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NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

U N I T E D S T A T E S **v.** **JESSE T. BOPP** **CORPORAL, USMC**	**APPOINTMENT OF DESIGNEE** **IAW R.C.M. 801(a)(6)** **17 June 2024**

1. **Nature of Order**. Pursuant to Rule for Court-Martial 801(a)(6), the Court shall appoint a designee to represent victims of offenses under the UCMJ who are incapacitated, incompetent, or deceased. In this case, Lance Corporal Austin Schwenk, USMC, the named victim of an offense alleged on the charge sheet, is deceased. The Government recommends the victim's mother, Mrs. Kassandra Christison, and his father, Mr. Robert Schwenk, be appointed as designees under the Rule.

2. **Findings of Fact:** The Court makes the following findings of fact:

a. LCpl Schwenk became a victim for the purposes of R.C.M 801(a)(6) during the charged timeline in charges I-III.
b. The proposed designees, Mrs. Kassandra Christison and Mr. Robert Schwenk, are the natural parents of the deceased victim.
c. The proposed designees are over 18 years old and are otherwise competent.
d. No costs are expected, other than travel costs, should the proposed designees desire to exercise the right under Article 6b to be present at sessions of court.
e. The proposed designees expressed willingness, via trial counsel, to serve as representative of LCpl Schwenk.
f. There is no delay anticipated with the appointment of the proposed designees.
g. Trial counsel recommends the appointment of the proposed designees.

3. **Rights of the Designee:** In addition to the rights conferred upon a victim under Article 6(b) of the UCMJ, the rights that a designee may exercise on behalf of a victim include:

a. The right to receive notice of public hearings in the case;
b. The right to be reasonably heard at such hearings, if permitted by law; and
c. The right to confer with counsel representing the government at such hearings.

4. For purposes of this order, a public hearing or proceeding under this instruction shall include any hearing or procedure which is open to the public generally or which has not been closed by competent authority. Personal appearance by the victims is not necessary to satisfy the right to be reasonably heard. The right to be reasonably heard may ordinarily be accomplished by telephonic, written, or other means.

5. While all reasonable efforts shall be made to ensure these rights are afforded to the victims/designees, in no case shall the rights of the accused be infringed or the administration of justice be unduly prejudiced.

6. **Order.** The Court **ORDERS** that Mrs. Kassandra Christison and Mr. Robert Schwenk be appointed as the designees of LCpl Schwenk within the meaning of R.C.M. 801(a)(6). Trial counsel will provide a copy of this order to the designees.

So **ORDERED** this 17th day of June, 2024.

[redacted]
Military Judge

AE XXXI
Pg 2 of 2

GENERAL COURT-MARTIAL
NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT

UNITED STATES **v.** **JESSE BOPP** **Corporal** **U.S. Marine Corps**	**COURT'S FINDINGS, CONCLUSIONS OF LAW, AND RULING** MOTION IN LIMINE (Exclude 404(b) Evidence)

1. Nature of Motion. The defense moved the Court *in limine* to exclude the following evidence:

a. Accused's statement to LCpl Aiden Dickinson that, "Every day I get closer to EAOSing I'm itching to kill someone," or words to that effect.

b. Lay opinion about whether or not Cpl Bopp "blacks out" while drinking alcohol.

2. **Findings of Fact**.

a. Corporal Jesse Bopp is charged with one specification of violating Article 92, UCMJ, violation of a lawful general order, by wrongfully possessing, carrying, and discharging a weapon onboard Marine Corps Base Camp Lejeune; one specification of violation of Article 118, UCMJ, Murder- an act inherently dangerous to another; and one specification of violation of Article 119, UCMJ, Involuntary Manslaughter. The charges stem from the shooting, and death, of LCpl A.S.

b. After work, LCpl Dickinson returned to his barracks room, played video games and watched Netflix.

c. The accused stopped by to talk to LCpl Dickinson and LCpl Metcalf. This was a normal occurrence since the accused lived nearby. The accused came over at approximately 1900 and left approximately 1945.

d. LCpl Dickinson described the accused as "clearly drunk" but not the "drunkest" he has ever seen him. The accused had an alcoholic drink in his hand and stated he was approximately "three in." LCpl Dickinson stated the accused was slurring his words but could stand and was coherent during the conversation. He also described the accused as joyous and joking around.

e. LCpl Dickinson reported to NCIS that at some point the accused made a joke stating that "every day I get closer to EAOSing I'm itching to kill someone." According to Dickinson, this is a normal type of joke for the accused and he has a dark humor.

3. **Statement of the Law**.

Evidence is admissible if it is relevant under M.R.E 401 and admissible under M.R.E 402. "Relevant evidence" means evidence having "any tendency to make a fact more or less probable than it would be without the evidence" and the "fact is of consequence in determining the action."

M.R.E 403 states that relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the members, or by considerations of undue delay, waste of time or needless presentation of evidence." In essence, this rule requires a military judge to determine whether proffered evidence is not only "logically relevant" (i.e., probative of the existence of a fact of consequence to the charge) but also "legally relevant." *U.S. v. Holmes*, 39 M.J. 175 (C.M.A. 1994). In applying the balancing test under M.R.E 403, a military judge should consider: 1) is the proffered evidence relevant; and 2) if so, does the danger of unfair prejudice created by the

testimony outweigh its probative value. *U.S. v. Wingart,* 27 M.J. 128 (C.M.A. 1988); *U.S. v. Neeley,* 25 M.J. 105, 107 (C.M.A. 1987).

Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person to show that the person acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

In *United States v. Reynolds*, 29 M.J. 105, 109 (C.M.A. 1989), the Court of Military Appeals adopted the following test for determining whether prior uncharged misconduct of an accused is admissible under M.R.E. 404(b): (1) Whether the evidence reasonably supports a determination by the factfinder that an accused committed the prior crimes, wrongs, or acts; (2) Whether the evidence makes a fact of consequence more or less probable; and (3) Whether the probative value of the evidence is substantially outweighed by the danger of unfair prejudice under M.R.E. 403.

The threshold for the first prong is low. The Court is required to examine "all the evidence in the case and decide whether the members could reasonably find the conditional fact by a preponderance of the evidence." The court neither weighs credibility nor makes a finding that the government has proven the conditional fact by a preponderance of the evidence. The court simply examines all the evidence in the case and decides whether the panel members could reasonably find the conditional fact. In analyzing the second prong, the fact(s) of consequence that are made more or less probable must be one or more of the non-propensity bases provided for in Rule 404(b). The third prong involves a balancing test to determine if the probative value is substantially outweighed by the danger of unfair prejudice. On this third prong, the military judge should consider the following factors: the strength of the proof of the prior act; the

probative weight of the evidence; the potential to present less prejudicial evidence; the possible distraction of the fact-finder; the time needed to prove the prior conduct; the temporal proximity of the prior event; the frequency of the acts; the presence of any intervening circumstances; and the relationship between the parties. *United States v. Berry*, 61 M.J. 91, 95 (C.A.A.F. 2005).

4. **Analysis and Conclusions of Law**.

STATEMENT

The Court finds the Reynolds test to be satisfied. The trier of fact could reasonably find that the accused made the statement that he was "itching to kill someone" by a preponderance of the evidence. As for the second prong, the Government alleges the non-propensity relevant purpose of the statement is to show absence of mistake, lack of accident, and intent to pull the trigger on the firearm. The Government also asserts this is Res Gestae.

As for the Res Gestae, the Court is not satisfied that the statement is Res Gestae. Res gestae is defined as "[t]he events at issue, or other events contemporaneous with them." *Black's Law Dictionary* 1565 (11th ed. 2019). The Government did not establish that the statement was made as part of the events at issue, or other events contemporaneous with them. Therefore, the Court does not find this evidence to be Res Gestae of the offenses alleged.

It appears the Defense is proceeding with a theory of mistake or accident. The defense counsel argued that the very nature of the charges allude to an accident. Based on this theory, the Court finds the statement to be relevant. If the accused did express an inclination to kill someone, that would be relevant in determining whether or not the shooting was in fact a mistake or accident.

The Court has considered MRE 403. Probative value exists as stated above. Some prejudicial effect may exist within the context of the statement, given that the accused said it as a

joke, which is consistent with his sense of humor. However, the defense is very well equipped to put the statement in its proper context during cross-examination. Therefore, the probative value of the statement is not substantially outweighed by the danger of unfair prejudice. Based on the Defense's anticipated theory of the case, that of mistake or accident, the Defense motion is DENIED with regard to the statement.

INTOXICATION OBSERVATIONS

The Defense's primary concern with the intoxication observations is the witness's ability to opine that the accused was "blacked out." The Court shares these concerns, as no adequate foundation was laid to establish the witness's ability to render such an opinion. Additionally, the Government stated at the 39(a) session they would not be eliciting an opinion from lay witnesses on the accused's state of "black out." Accordingly, the defense motion with regard to lay "black out" opinion is GRANTED.

5. **Ruling.**

The defense motion to exclude evidence is GRANTED in part and DENIED in part, as described in paragraph four above.

So ordered this 11th day of July 2024.

[redacted]

A.J. WORKMAN
Col, U.S. Marine Corps
Military Judge

AE XXXII
Pg 5 of 5

GENERAL COURT-MARTIAL
NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT

UNITED STATES v. Jesse T. Bopp Cpl / E-4 U.S. Marine Corps	REQUEST TO AMEND MILESTONES Date: 18 July 2024

1. **Nature of Request:** This is a defense counsel motion for appropriate relief, pursuant to R.C.M. 906, to modify the existing trial milestones. Due to ongoing pretrial negotiations and civilian defense counsel becoming involved on 5 July and still pending the receipt of all discovery, the following request to amend milestones is made.

2. **Summary of the Facts:**

a. This case is currently docketed for trial from 4-18 November 2024.
b. The arraignment was conducted on 5 March 2024 with the following milestones:

Request for Discovery	15 Mar 24
Government Disclosures & Response	25 Mar 24
Defense Disclosures & Motion for Discovery	4 Apr 24
Government Response to Motion for Discovery	11 Apr 24
Discovery Status 39(a)	16 Apr 24
Defense Expert Consultant Request	25 Mar 24
Government Response to Expert Consultant Request	1 Apr 24
Motion to Compel Expert Consultant	4 Apr 24
Government Response to Motion to Compel Expert Consultant	11 Apr 24
Expert Consultant Status 39(a)	16 Apr 24
Article 39a, If Necessary	6-10 May 24
Defense Request for Expert Witness	15 May 24
Government Notices Pursuant to M.R.E. 404(b), 412, 413(b), 414(b)	15 May 24
Government Response to Expert Witness Request	22 May 24
Defense Motion to Compel Expert Witness	30 May 24
Other Motions Filed	30 May 24
Government Response to Motion to Compel Expert Witness	6 Jun 24
Responses to Other Motions Filed	12 Jun 24
Written Notice of Certain Defenses	16 Jun 24
Written Notice of Pleas and Forum	16 Jun 24
Article 39a Experts/Other Motions	17 Jun 24
Declaration of Expert Witness and Reciprocal Discovery	10 Jul 24
Defense Request for Witnesses	10 Jul 24
Government Response to Defense Request for Witnesses	24 Jul 24

Motions Filed	31 Jul 24
Motions Responses	7 Aug 24
Article 39a Reciprocal Discovery/Daubert	12 Aug 24
Final Pretrial Matters	12 Sept 24
Article 39a Pretrial Status Conference	26 Sept 24
Trial Dates at Camp Lejeune, NC	4-18 Nov 24

c. Civilian defense counsel was retained on 5 July 2024 and requested discovery and all filings from the inception of this case. As of the date of this motion to amend milestones, counsel has not yet been provided the totality of the discovery or filings. While counsel has been provided a portion of the discovery, the discovery is over 2,000 pages, including multiple CDs, DVDs, containing various materials, to include recorded interviews, interrogations, and other recordings. As of 17 July 2024, Civilian Defense Counsel received the majority of the evidence as counsel was able to obtain 14 discs of discovery . As of 18 July, Civilian Defense Counsel is going through each disk to ensure files are properly working; however, some of the files contained within the disks do not properly work. Civilian Defense Counsel is working through these issues. . The complexity of this particular case involving allegations of Articles 118, 119, and 92, UCMJ, will require an extensive overview of all discovery in order to determine appropriate requests for expert consultants, witnesses, and additional motions to be filed. Additionally, on 8 July 2024, a subpoena was signed and ordered by the Court for Discord to provide additional records based on the ongoing Naval Criminal Investigative Services (NCIS) investigation. These records include electronic communications allegedly between the Accused and other users and the quantity of these records is currently unknown, in addition to whether additional interviews or investigative steps will be taken by NCIS based on the result of the subpoena. Based on this, it is requested that the listed milestones be amended to the dates below.

Defense Expert Consultant Request	30 Jul 24
Government Response to Expert Consultant Request	2 Aug 24
Motion to Compel Expert Consultant	6 Aug 24
Government Response to Motion to Compel Expert Consultant	8 Aug 24
Expert Consultant Status 39(a)	9 Aug 24
Article 39a, If Necessary	3-5 Sept 24
Defense Request for Expert Witness	16 Sept 24
Government Notices Pursuant to M.R.E. 404(b), 412, 413(b), 414(b)	16 Sept 24
Government Response to Expert Witness Request	20 Sept 24
Defense Motion to Compel Expert Witness	27 Sept 24
Other Motions Filed	27 Sept 24
Government Response to Motion to Compel Expert Witness	4 Oct 24
Responses to Other Motions Filed	4 Oct 24
Written Notice of Certain Defenses	8 Nov 24
Written Notice of Pleas and Forum	8 Nov 24
Article 39a Experts/Other Motions	15 Oct 24

Declaration of Expert Witness and Reciprocal Discovery	22 Oct 24
Defense Request for Witnesses	22 Oct 24
Government Response to Defense Request for Witnesses	28 Oct 24
Motions Filed	15 Oct 24
Motions Responses	4 Nov 24
Article 39a Reciprocal Discovery/Daubert	7 Nov 24
Final Pretrial Matters	13 Dec 24
Article 39a Pretrial Status Conference	17 Dec 24
Trial Dates at Camp Lejeune, NC	22 Jan- 7 Feb 25

2) To enhance judicial economy and efficiency related to this request, the defense had provided a draft of this motion to all counsel involved in the case to include VLC and OSTC to socialize any conflicts with the requested dates. All counsel can support the milestones proposed in this request. Enclosures (1) and (2) are emails reflecting the VLCs support for this request.

3) Counsel are available to address any questions related to this request.

[redacted]

Eric M. Kopka
Civilian
Defense Counsel

Joshua Rehak
Major, U.S. Marine Corps
Defense Counsel

Jessica McLaughlin
Captain, U.S. Marine Corps
Defense Counsel

Trial counsel opposes X does not oppose ___.

[redacted]

Jason Samuel
Major, U.S. Marine Corps
Special Trial Counsel

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This motion is___ is not___ granted.

_____
Military Judge

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DEPARTMENT OF THE NAVY
NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES v. JESSE T. BOPP CORPORAL/E-4 U.S. MARINE CORPS	**GOVERNMENT MOTION TO COMPEL (R.C.M. 703(d)(3))** 11 July 2024

1. Nature of Filing.

The Government hereby provides notice to the Court that the Defense has failed to comply the Trial Management Order mandating the declaration of expert witnesses in accordance with R.C.M. 703(d)(3). Accordingly, it requests that the Court compel the notice.

2. Summary of Facts.

On 5 March 2024, the accused was arraigned on charges of Article 118(3) Murder, Article 119 Involuntary Manslaughter, and Article 92 Violation of a Lawful Order. On 22 March 2024, the Military Judge established a Trial Management Order (TMO). In the TMO the Court ordered declaration of expert witnesses to take place on 10 July 2024. The Government provided its initial witness list to the Defense on 25 March 2024[1], which specifically identified its expert witnesses, and provided summarized statements of the expert witnesses through discovery on 22 January 2024, 8 April 2024, and by email on 13 May 2024. On 10 July 2024, the Defense notified the Government that it is "currently working with expert consultants…Defense will advise both the Government counsel and the Court if such

[1] Enclosure 1

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witnesses are to be declared expert witnesses."[2] The Defense did not declare any expert by the TMO deadline.

3. **Law.**

Rules for Courts-Martial 703(d)(3)(B) states "The military judge shall set a date upon which notices under R.C.M. 703(d)(3)(A) are due to the opposing party." Further, it goes on to say that, "If at any time it is brought to the attention of the military judge that a party has failed to comply with this rule, the military judge may take one more of the following actions: (i) order the required notice; (ii) Order the party to permit discovery; (iii) grant a continuance; (iv) prohibit the party from introducing evidence, calling a witness, or raising a defense not disclosed; and (v) enter such other order as is just under the circumstances."[3]

4. **Relief Requested.**

The Government respectfully requests this Honorable Court to order the required notice, or in the alternative, prohibit the defense from calling any expert witness at trial.

5. **Evidence.**

Other than the TMO which is already part of the record, the Government submits the additional enclosures:

a. Enclosure 1: Government initial witness list dtd 25 March 2024

b. Enclosure 2: Defense Request for Production of Witnesses dtd 10 July 2024

[2] Enclosure 2
[3] R.C.M. 703(d)(3)(C):

6. **Oral Argument.** The Government does not request oral argument and requests the Court rule on the matter prior to the next scheduled Article 39a session on 12 August 2024.

[redacted]

[redacted]
Jason D. Samuel
Major, USMC
Special Trial Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Government Motion to Compel was served electronically on defense counsel on 11 July 2024.

[redacted]

[redacted]
Jason D. Samuel
Major, USMC
Special Trial Counsel

ENCLOSURE 1

Government Initial Witness List

dtd 25 March 2024

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DEPARTMENT OF THE NAVY
MARINE CORPS OFFICE OF SPECIAL TRIAL COUNSEL – MCB CAMP LEJEUNE
MARINE CORPS BASE CAMP LEJEUNE
PSC BOX 20010
CAMP LEJEUNE, NC 28542-0010

5811
OSTC/jds
25 Mar 24

From: Special Trial Counsel
To: Detailed Defense Counsel

Subj: GOVERNMENT INITIAL WITNESS LIST ICO U.S. V. CORPORAL BOPP

1. The Government is providing this initial witness list as part of its initial disclosure per footnote ii of the TMO dated 20 March 2024. This list is subject to change and is not the final witness list. The Government is free to change its determination of the relevance or necessity of any of these witnesses, or add witnesses as it deems necessary, at any time between now and the submission of final pre-trial matters. Defense should not rely on this witness list as the sole basis for its trial preparation and should independently request the production of any witnesses the Defense believes are necessary even if they are included on this list.

2. Captain Meghan Brophy, USMC. 2d Battalion, 6th Marines.
   a. meghan.brophy@usmc.mil; 719-271-8670
3. Gunnery Sergeant Robert Wold, USMC. 2d Battalion, 6th Marines.
   a. robert.wold@usmc.mil; 910-546-2964
4. Gunnery Sergeant Jason Womelsdorf, USMC. 2d Battalion, 6th Marines.
   a. jason.womelsdorf@usmc.mil; (910) 451-7281
5. Sergeant Joshua Grimison, USMC. 2d Battalion, 6th Marines.
   a. joshyjingle@hotmail.com; 772-646-8977
6. Corporal Benjamin House, USMC. 2d Battalion, 6th Marines.
   a. houseben000@gmail.com; 317-997-0143
7. Lance Corporal Aiden Dickinson, USMC. 2d Battalion, 6th Marines.
   a. aiden.dickinson2022@gmail.com; 806-323-3046
8. Lance Corporal Brennan Metcalf, USMC. 2d Battalion, 6th Marines.
   a. brennan.d.metcalf@gmail.com; 910-389-2510
9. Lance Corporal Matthew Vann, USMC. 3d Battalion, 6th Marines.
   a. mattvann1776@gmail.com; 772-321-5511
10. Corporal Dylan Kane, USMC. 2d Battalion, 6th Marines.
    a. dylankane8870@gmail.com; 347-233-0060
11. Corporal Taren Caraveu, USMC. 2d Battalion, 6th Marines.
    a. tcaraveau714@gmail.com; 609-943-1360
12. Special Agent Megan Robbins, NCIS.
    a. megan.robbins@ncis.navy.mil; 910-545-9530
13. Special Agent Jason Griess, NCIS.
    a. jason.griess@ncis.navy.mil; 910-279-8004
14. Special Agent Celia Rosa, NCIS.
    a. celia.rosa@ncis.navy.mil; 760-851-5463
15. Mr. Zachary Weitzel, Expert Witness, USACIL.

a. Zachary.e.weitzel.civ@army.mil; 404-469-4063;

16. Mr. Matney Wyatt, Expert Witness, USACIL.
    a. john.m.wyatt20.civ@army.mil; 404-469-7068
17. Maj Leah Schuppener, Expert Witness, AFMES.
    a. leah.m.schuppener.mil@health.mil; (302) 346-8701
18. Mr. Timmy Froemming, MCIEAST G-1
    a. timmy.froemming@usmc.mil; (910) 451-3033

19. The point of contact for this notice is the undersigned at 910-451-9725 or jason.d.samuel.mil@usmc.mil.

[redacted]

J. D. SAMUEL
Major, U.S. Marine Corps
Special Trial Counsel Team Lead

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ENCLOSURE 2

Defense Request for Production of Witnesses dtd 10 July 2024

UNITED STATES MARINE CORPS
CAMP LEJEUNE BRANCH, EASTERN REGION
MARINE CORPS DEFENSE SERVICES ORGANIZATION
PSC BOX 20005
CAMP LEJEUNE, NORTH CAROLINA 28542-0005

IN REPLY REFER TO
5800
DSO/jlm
10 July 2024

From: Captain Jessica L. McLaughlin, USMC, Detailed Defense Counsel
To: Trial Counsel

Subj: DEFENSE REQUEST FOR PRODUCTION OF WITNESSES IN THE CASE OF U.S. V CORPORAL JESSE BOPP, USMC

Ref:(a) RCM 703
(b) UCMJ Arts 46, 47
(c) Brady v. Maryland 373 US 83 (1963)
(d) Jenks Act 8 USC 3500
(e) Giglio v. U.S. 405 US 150

1. Defense requests the following witnesses:

a. Maureen Bopp, [redacted] New Berlin, WI. Cpl Bopp's mother. Character/sentencing witness.

b. Tom Bopp, [redacted] New Berlin, WI. Cpl Bopp's father. Character/sentencing witness.

c. Annie Matte (Bopp) [redacted], Des Moines, Iowa. Cpl Bopp's sister. Character/sentencing witness.

d. Delany Bopp, [redacted], New Berlin, WI. Cpl Bopp's sister. Character/sentencing witness.

e. Bridget Geboy Helfenstein, [redacted] New Berlin, WI. Cpl Bopp's high school Spanish teacher. Character/sentencing witness.

f. Jessica Santiago, [redacted] New Berlin, WI. Cpl Bopp's high school Spanish teach. Character/sentencing witness.

2. Additionally, Defense requests production of all the anticipated Government witnesses notated on the Government's witness list.

3. Defense is currently working with expert consultants. Defense will advise both the Government counsel and the Court if such witnesses are to be declared expert witnesses.

4. Defense reserves the right to supplement our witness request with regards to both the merits and sentencing. Additionally, on 8 July 2024, Mr. Eric Kopka was retained as a Civilian Defense Counsel (CDC) by Cpl Bopp. Once given ample opportunity to review the discovery, Mr. Kopka reserves the right to supplement this request.

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[redacted]

J. L. MCLAUGHLIN
Captain, U.S. Marine Corps
Detailed Defense Counsel

****

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above request was served upon trial counsel via email on 10 July 2024.

[redacted]

J. L. MCLAUGHLIN
Captain, U.S. Marine Corps
Detailed Defense Counsel

AE XXXV
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NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES **V.** **JESSE BOPP** **CORPORAL** **USMC**	**DEFENSE RESPONSE TO GOVERNMENT MOTION TO COMPEL (R.C.M. 703(D)(3))** **31 July 2024**

MOTION

The defense files this response to the Governments' motion to compel R.C.M. 703(d)(3). Pursuant to Rule for Court-Martial (R.C.M.) 701(g)(3), Article 46, Uniform Code of Military Justice (U.C.MJ.), and the United States Constitution, the defense requests that this Court deny the Government's motion.

SUMMARY

The Government filed a motion seeking an order that defense provide notice of expert witnesses or that the Court prohibit the defense from calling any expert witnesses at trial.

FACTS

1. On 5 March 2024, Corporal Bopp was arraigned.
2. On 22 March 2024, an initial Trial Management Order was established. This trial management order was modified since then.[1]
3. On 23 April 2024, the Government requested warrants which were signed by the Court.[2]
4. On 25 June 2025, the Government requested subpoenas from the Court which were signed on 8 July 2024.[3]
5. On 2 July 2024, the defense interviewed Naval Criminal Investigative Service (NCIS) Special Agent (SA) M.R.[4]
6. During the interview, SA M.R. stated that the Government is not pursuing trajectory or fingerprint analysis.[5]

[1] See Record of Trial
[2] See Record of Trial
[3] See Record of Trial
[4] Enclosure 1
[5] *Id.*

7. SA M.R. also stated that the investigation is ongoing and that she will need to conduct additional interviews when the subpoena requests are returned from Discord.[6]
8. SA M.R. explained that there were people speaking on a Discord chat that Lance Corporal (LCpl) A.S. was a party to when he was shot.[7]
9. SA M.R. informed defense that she intends on interviewing those people after subpoenas are returned.[8]
10. On 10 July 2024, the defense submitted its initial request for witnesses and informed the Government that it is currently working with expert consultants. The defense is currently working with a risk recidivism expert, a ballistics expert, and a toxicologist. However, these consultants are still forming opinions and reviewing materials. They are not prepared to be produced as expert witnesses at this time.[9]
11. On 19 July 2024, the Government provided defense additional Military Rule of Evidence (M.R.E.) 304; 404(b); and 406 notices.[10]
12. On 19 July 2024, the Discord subpoena was returned.[11]
13. Both parties are continuing to conduct on-going investigative steps.

BURDEN

The Government bears the burden of proof, and the burden of persuasion is by a preponderance of the evidence.

LAW

Article 46, UCMJ, states that "The . . . defense counsel . . . shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the President may prescribe." R.C.M. 703(b)(1) establishes that "Each party is entitled to the production of any witness whose testimony on a matter in issue on the merits ... would be relevant and necessary." The equal right to obtain witnesses includes the "equal opportunity to obtain expert witnesses." *See* M.R.E. 706(a).

The Court of Appeals of the Armed Forces has held that there is no "bright-line rule" for when to require production of a defense witness. In *Ruth*, the Court held "This Court has never

[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] See Government Motion to Compel Enclosure 2
[10] Enclosure 2
[11] See Record of Trial

announced a bright-line rule as to when to require production of a defense-requested witness. The facts of each case are unique. However, over time we have recognized specific factors to be considered in deciding whether personal production of a witness is necessary." *United States v. Ruth*, 46 M.J. 1, 4 (C.A.A.F. 1997). *Ruth* established factors for a court to use when determining whether not to grant or not grant production of an expert witness. The Court held that courts should consider "the issues involved in the case and the importance of the requested witness as to those issues; whether the witness is desired on the merits or the sentencing portion of the trial; whether the witness' testimony would be merely cumulative; and the availability of alternatives to the personal appearance of the witness, such as deposition, interrogatories or previous testimony." *Id* at 4.

The Navy-Marine Court of Criminal Appeals held that expert witnesses are foundational to the defense case, and the issue of whether to grant an expert witness or not is a matter of fundamental, constitutional fairness in the judicial process. In *Bunton*, the Navy-Marine Court of Criminal Appeals stated, "Where a military judge deprives an appellant of expert testimony and consequently deprives him or her of the right to present a defense, the error is constitutional and the test for prejudice on appellate review is whether the appellate court is able to declare a belief that it was harmless beyond a reasonable doubt." *United States v. Bunton*, 82 M.J. 752, 782 (N-M Ct. Crim. App. 2022). The *Bunton* Court further held that "To justify production [of an expert witness], an appellant must establish: (1) the qualifications of the expert; (2) the subject matter of the expert testimony; (3) the basis for the expert testimony; (4) the legal relevance of the evidence; (5) the reliability of the evidence, and; (6) whether the probative value of the testimony outweighs other considerations. *Bunton* at 781.

Additionally, the *Ruth* Court recognized that "It is not always possible to determine the necessity of a defense expert witness until after the government expert has testified." *Ruth* at 4.

ARGUMENT

As demonstrated by the Government's recent requests for subpoenas, new notices, and continued discovery, it is evident that this case is currently still being investigated.

At this time, the defense cannot ripen any expert consultant into an expert witness. First and foremost, the expert consultants have not provided defense with any discoverable materials at the time of this filing. According to the Court in *Bunton*, the defense must be able to show

why an expert's production would be necessary. At this time, the defense cannot show why the production is necessary, and therefore, it not ripe at this time.

Additionally, defense recently decided to pursue additional experts based on newly learned information. On 2 July 2024, the defense was informed for the first time that the Government would not be pursuing any ballistics or trajectory evidence in this homicide case. Therefore, the defense found it necessary to pursue a ballistics and trajectory expert. Based on conversations among the defense team, counsel found it prudent to pursue a toxicologist as well. There is no rule that allows the Government to preclude Corporal Bopp's team from adjusting its strategy and pursue witnesses as the facts of the case change and evolve. The *Ruth* Court mentions that defense experts may or may not be relevant for production simply based on the Government's case and strategy. *Ruth* at 4. In this case, the Government is continuing to adjust its strategy and investigate as well. The defense cannot be precluded from doing the very same.

In its motion, the Government requested that this Court apply a drastic remedy and preclude Corporal Bopp from calling any expert witness on his behalf. It is important to note that the R.C.M. 703(d)(3) discussion references the R.C.M. 701(g)(3) discussion. The discussion in R.C.M. 701(g)(3) states:

> "The sanction of excluding the testimony of a defense witness should be used only upon finding that the defense counsel's failure to comply with this rule was willful and motivated by a desire to obtain a tactical advantage or to conceal a plan to present fabricated testimony. Moreover, the sanction of excluding the testimony of a defense witness should only be used if alternative sanctions could not have minimized the prejudice to the Government. Before imposing this sanction, the military judge must weight the defendant's right to compulsory process against the countervailing public interests, including (1) the integrity of the adversary process; (2) the interest in the fair and efficient administration of military justice; and (3) the potential prejudice to the truth-determining function of the trial process."

Here, the Government is asking for this dire remedy from the Court without any showing that the defense has acted in bad faith. Furthermore, the Government asks for an order that the defense disclose its experts which in turn would require defense to disclose strategic and tactical decisions when the Government itself has not completed

its investigation and continues to adjust its trial strategy. This is not fundamental fairness in the process.

RELIEF REQUESTED

For the foregoing reasons, the defense requests the Court deny the Government's motion.

ENCLOSURES

Enclosure 1: Defense Prover Notes dated 2 July 24.

Enclosure 2: Government notices provided on 19 July 24.

ORAL ARGUMENT

Defense requests oral argument.

[redacted]
J. A. Rehak
Major, USMC
Defense Counsel

CERTIFICATE OF SERVICE

I hereby certify that on the 31st Day of July 2024, a copy of this Motion was served on Trial Counsel and the Court.

[redacted]
J. A. Rehak
Major, USMC
Defense Counsel

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U.S. v. CORPORAL JESSE T. BOPP

Defense Response to Government Motion to Compel R.C.M. 703(d)(3)

Enclosure 1: Defense Prover Notes dated 2 July 24

Enclosure 2: Government Email and Additional Notices dated 19 July 24

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ENCLOSURE

1

UNITED STATES MARINE CORPS
GENERAL COURT-MARTIAL
EASTERN JUDICIAL CIRCUIT

UNITED STATES v. JESSE T. BOPP CORPORAL U. S. MARINE CORPS	DEFENSE PROVER STATEMENT Date: 2 July 2024

Statement of Corporal Eric Deluca

I, Corporal Eric A. DeLuca, state:

1. On 2 July 2024, I sat in as a prover during a telephonic interview between Major Joshua Rehak, USMC, Captain Jessica McClaughlin, USMC, Major Jason Samuel, USMC, and Special Agent M.R., NCIS.
2. Special Agent M.R. is currently waiting on the subpoena for discord, because there were people speaking on the headset at the scene of this event. Special Agent M.R. is trying to get the investigative process finished but is just waiting for discord because she will need to interview people who were speaking on the headset during this event.
3. Special Agent M.R.'s steps she had already took were getting the victims information, completed the FERRO exam, completed several interviews, sent evidence to USACIL, called some of the victims friends from Ohio.
4. Special Agent M.R. stated that there are two ROIs pending.
5. Special Agent M.R. also stated that the government did not request fingerprints or trajectory analysis from USACIL.

[redacted]

Eric A. DeLuca
Corporal
U.S. Marine Corps

ENCLOSURE

2

From: Samuel Maj Jason D
To: ericmkopka
Cc: Rehak Maj Joshua A; Mclaughlin Capt Jessica L
Subject: MRE 304f, 404b, & 406 Notice ICO U.S. v. Bopp
Date: Friday, July 19, 2024 5:21:25 PM
Attachments: MRE 304 404b 406 Notice (Bopp Statements to Metcalf About Condition 1).pdf

Good afternoon Mr. Kopka:

Please find attached a notice of statements the Government intends to introduce at trial.

We will provide this to the Court shortly.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
***(C):** [redacted] *
(E): jason.d.samuel.mil@usmc.mil

DEPARTMENT OF THE NAVY
MARINE CORPS OFFICE OF SPECIAL TRIAL COUNSEL – MCB CAMP LEJEUNE
MARINE CORPS BASE CAMP LEJEUNE
PSC BOX 20010
CAMP LEJEUNE, NC 28542-0010

5811
OSTC/jds
19 Jul 24

From: Special Trial Counsel
To: Civilian Defense Counsel

Subj: MRE 304(f) and MRE 404b, & MRE 406 NOTICE ICO U.S. V. CORPORAL BOPP

Ref: OSTC-E Thirteenth Discovery ltr ICO Corporal Jesse T. Bopp, dtd 12 Jul 24

1. The Office of Special Trial Counsel is providing notice under MRE 304 that it has disclosed to you statements of the accused received by the Government after arraignment. These statements were disclosed to the Defense on 19 July 2024 in the Government's Thirteenth Discovery Letter. The statements are contained in the provers notes and are listed as Bates Stamp #: 002144 - 002147. The statements that Government may seek to admit are the statements of the accused to LCpl Brennan Metcalf that the accused had a philosophical belief that his firearm should always be kept in weapons condition 1.

2. The Government hereby provides notice of its intent to use the following evidence of other crimes, wrongs, and other acts during its case-in-chief or as rebuttal evidence.

A. Accused's belief that 1) a firearm should always be in weapons condition 1, 2) he philosophical believed that his firearm should always be kept in weapons condition 1, and 3) he always carried his personal firearm in weapons condition 1. (BS#2145). **404b Purpose**: Lack of accident, absence of mistake, opportunity, knowledge, state of mind, and in rebuttal. This evidence will be offered to show that the accused had no reasonable belief that his weapon was not loaded when he shot and killed LCpl A.S.

3. The Government hereby provides notice of its intent to use the above evidence as habit evidence in accordance with MRE 406.

4. The Defense is on notice that these statements of the accused may be introduced at trial for the above purposes.

5. The point of contact for this notice is the undersigned at 910-451-9725 or jason.d.samuel.mil@usmc.mil.

[redacted]

J. D. SAMUEL
Major, U.S. Marine Corps
Special Trial Counsel Team Lead

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NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT

UNITED STATES v. JESSE T. BOPP Corporal U.S. Marine Corps	GENERAL COURT-MARTIAL VICTIMS' LEGAL COUNSEL NOTICE OF APPEARANCE Date: 29 July 2024

1. Pursuant to Rule 36.1 of the Uniform Rules of Practice Before Navy-Marine Corps Courts-Martial (Uniform Rules) and Rule 36.1a of the Eastern Judicial Circuit Rules of Practice (EJC Rules), I, Captain Abby L. Fryman, USMC, hereby provide notice to the Circuit Military Judge of my appearance on behalf of Ms. Kassandra Christison. My office address, phone number, and e-mail address are: 403 L Street, Camp Lejeune, North Carolina; 910-915-9782; abby.fryman@usmc.mil.

2. I have been detailed as the Victims' Legal Counsel for the above named victim in this case by the Regional Victims' Legal Counsel East, Major Calebe Rice, USMC. I am qualified and certified under Article 27(b) and sworn under Article 42(a) of the Uniform Code of Military Justice. I have not acted in any disqualifying manner.

3. I am aware of the standards of professional conduct required of counsel practicing in Navy-Marine Corps courts-martial as contained in JAG Instruction 5803.1E. I certify that I am not now, nor have I ever been, de-certified or suspended from practice in Navy-Marine Corps courts-martial by the Judge Advocate General of the Navy.

4. I have reviewed and am familiar with the Uniform Rules of Practice for the Navy-Marine Corps Trial Judiciary and the Eastern Judicial Circuit rules of Practice.

AE XXXVIII

5. My client has limited standing as a named victim in this court-martial, and she reserves the right to exercise those rights through counsel as needed.

[redacted]

A. L. FRYMAN
Captain, U.S. Marine Corps
Victims' Legal Counsel

****

Certificate of Service

I hereby attest that a copy of the foregoing notice of appearance was served on the court and counsel on 29 July 2024.

[redacted]

A. L. FRYMAN
Captain, U.S. Marine Corps
Victims' Legal Counsel

AE XXXVIII
Pg 2 of 2

DEPARTMENT OF THE NAVY
NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES v. JESSE T. BOPP CORPORAL/E-4 U.S. MARINE CORPS	**GOVERNMENT RESPONSE TO DEFENSE MOTION FOR CONTINUANCE** 24 July 2024

1. Nature of Motion.

The Government opposes the Defense request to create new trial milestones and continue the currently docketed trial date because the Defense request is not ripe at this time.

2. Burden of Proof and Persuasion.

As the moving party, the Defense bears the burden of proof and persuasion.[1]

3. Summary of Facts.

On 18 October 2023, Corporal Jesse Bopp shot and killed Lance Corporal A.S.[2] He was taken into custody later that day and placed into pre-trial confinement on 19 October 2023. Charges were preferred against him on 29 November 2023.[3] An Article 32 Preliminary Hearing was held 3 January 2024. On 19 January 2024, the Convening Authority referred his charges to this general court-martial. Immediately thereafter, the Government sought to arraign the accused, an effort which was the subject of a Motion to Toll the Speedy Trial Clock due to Defense Counsel unavailability. On 30 January 2024, the Court attempted to arraign the accused. Because the accused's detailed counsel were not present at that hearing,

[1] R.C.M. 905(c)
[2] Names of victims and witnesses will be redacted IAW EJCR 7.3.
[3] Charge Sheet

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the Defense requested that the Court grant a continuance to 5 March 2024, the first date when all detailed defense counsel could be present to conduct the arraignment. The Court granted the Defense continuance request. The accused was arraigned on 5 March 2024. On 22 March 2024 the Military Judge signed a Trial Management Order (TMO) docketing trial for 16-30 October 2024. On 16 April 2024, the Military Judge *sua sponte* alerted the Parties to a conflict the Court had with the 16-30 October trial dates and in the same correspondence changed the docketed trial dates to 2-16 October 2024. Due to defense counsel conflicts with the new trial dates, the Defense filed its second request for a continuance on 25 April 2024. This request was granted by the Court on 2 May 2024.

On 8 July 2024, Mr. Eric Kopka provided his notice of representation of the accused. Mr. Kopka was retained as civilian defense counsel on 5 July 2024. Mr. Kopka joined the existing defense counsel team of Major Joshua Rehak, the Senior Defense Counsel at Marine Corps Air Station Cherry Point, and Captain Jessica McLaughlin, the 2023 Marine Corps Defense Services Organization Defense Counsel of the Year. On 19 July 2024, the Defense filed its third request for a continuance.

4. **Discussion of Law and Analysis.**

The Law

"The Sixth Amendment guarantees the right to counsel, and within that, the right to choice of counsel for those who hire their own counsel."[4] "Deprivation of the right is 'complete' when the defendant is erroneously prevented from being represented by the lawyer he wants, regardless of the quality of the representation he received."[5] "[T]he right to counsel of choice is not absolute and must be balanced against society's interest in the efficient and expeditious

[4] *United States v. Watkins*, 80 M.J. 253, 258 (CAAF 2020).
[5] *United States v. Gonzalez-Lopez*, 548 U.S. 140, 148 (2006).

administration of justice."[6] "The military judge...may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just."[7] "A military judge should grant a continuance in order to allow an accused a reasonable opportunity to obtain civilian counsel for the proceeding."[8] The length of time the new civilian counsel has to prepare is a factor consider in granting a continuance.[9] The need for a continuance in a court-martial due to hiring a civilian defense counsel is less likely because assigned military defense counsel should be prepared to proceed to trial in a timely manner.[10] "The exercise of the right to civilian counsel cannot operate to unreasonably delay the progress of the trial."[11] "A trial court has wide latitude in balancing the right to counsel of choice against the needs of fairness, and against the demands of its calendar."[12]

Discussion

The Defense continuance request is not ripe at this time and should be denied. Restarting the trial management order without good cause does not currently outweigh society's interest in the efficient and expeditious administration of justice.

Restarting the trial management order is not necessary. The accused has hired Mr. Kopka to supplement his current defense team of detailed military counsel, Major Rehak and Captain

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[6] *United States v. Thomas*, 22 M.J. 57, 59 (CMA 1986).
[7] Article 40, UCMJ.
[8] *United States v. Miller*, 47 M.J. 352, 358 (1997).
[9] "Certainly in this case, where defense counsel had so little time to prepare, it would be difficult to find harmless error." *United States v. Miller*, 47 M.J. 352, 359 (1997).
[10] "The actual need for a continuance is less likely in the military justice system than in the civilian justice system. At court-martial, an accused who has hired a civilian defense counsel often still receives representation from an assigned military defense counsel who should be prepared to proceed to trial in a timely manner. In this circumstance, an accused's right to counsel under the Sixth Amendment or Article 38, UCMJ, would likely not be violated." *United States v. Watkins*, 80 M.J. 253, 259 (footnote 5) (CAAF 2020).
[11] *United States v. Thomas*, 22 M.J. 57, 59 (CMA 1986).
[12] *United States v. Watkins*, 80 M.J. 253, 258 (CAAF 2020).

McLaughlin. With the consent of the accused, the military counsel have made strategic and tactical decisions in the case working through their way the 80% of TMO. They have made discovery requests, consulted with experts, and filed motions. The only significant items remaining on the current TMO are two Article 39a sessions, final pre-trial matters, and trial beginning on 4 November 2024. The defense has not articulated any specific rationale or reason for the delay, only a general rationale for having more time after the expiration of the TMO. Should Mr. Kopka have specific requests of the Court, (e.g., request for funding of expert consultation, a request for funding of an expert witness, or substantive motions to file) then the Defense should provide the Court with specific justification as to that specific request, instead of a blanket request.

There is ample time for the new civilian counsel to prepare for the currently scheduled trial. The standard TMO within the Navy-Marine Corps Trial Judiciary is approximately 90 days for a general court-martial. This trial is not scheduled to start for another 104 days. The accused has had the benefit of one military defense counsel since 23 October 2023, and a second military defense counsel since 27 January 2024. The military counsel remain on the case and will be able to assist Mr. Kopka in his review of the case.

This currently constituted Defense team has declined to comply with the current TMO.[13] On 10 July, the Defense chose to not declare its expert witnesses in the case, despite the Court order to do so. The Defense did indicate that it has experts it is consulting with, but yet they are making the strategic and tactical decision to not comply with the Court ordered disclosure. This is not the first deadline the Defense has failed to comply with. The Government discussed these

[13] Government Motion to Compel filed 11 July 2024.

previous failures with the Court at the 17 June Article 39a. The Court should not condone or encourage the Defense team's failure to abide by the TMO by re-issuing a new TMO. Instead, it should permit the Defense to make specific, particularized requests, and if there is good cause for the late filing of the request, or the need for additional time for preparation, then at that time the Court should consider that specific and individual request. However, this request is not ripe and speculative of the need for more time.

5. **Relief Requested.**

The Government opposes the Court granting the third Defense continuance absent a showing of good cause.

6. **Evidence.** No additional evidence.

7. **Oral Argument.** The Government does not request oral argument.

[redacted]

Jason D. Samuel
Major, USMC
Special Trial Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Government Response to Defense Motion for a Continuance was served electronically on all parties on 24 July 2024.

[redacted]

Jason D. Samuel
Major, USMC
Special Trial Counsel

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GENERAL COURT-MARTIAL
NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT

UNITED STATES v. Jesse Bopp Corporal U.S. Marine Corps	DEFENSE MOTION TO COMPEL PRODUCTION OF WITNESSES Date: 31 July 2024

1. Nature of Motion. This is a motion Pursuant to Rules for Courts-Martial (R.C.M.) 703 and 906(b)(7), and Article 46, Uniform Code of Military Justice, for production of witnesses.

2. Summary of Facts.

a. Pursuant to the court-ordered trial milestones in this case, the Defense submitted a request for production of witnesses to the Government on 10 July 2024. (Enclosure (1))

b. On 24 July 2024, the Government responded to the Defense's request, denying all six (6) requested witnesses. (Enclosure (2))

c. On 31 July 2024, a supplement to the original witness request was submitted to the Government. (Enclosure (3))

d. The witnesses who are the subject of this motion are: Maureen Bopp, Thomas Bopp, Delany Bopp, Annie Matte, Bridget Geboy Helfenstein, and Jessica Santiago.

3. Discussion.

a. The Accused is entitled to have material witnesses provided for his court-martial. Article 46, UCMJ. *See also United States v. Manos*, 17 U.S.C.M.A. 10, 37 C.M.R. 274 (C.M.A. 1967) (applying *Washington v. Texas*, 388 U.S. 14 (1967)). In order to compel the production of witnesses, the defense must establish by a preponderance of the evidence that the requested witness is both material and necessary. *United States v. Tangpuz*, 5 M.J. 426 (C.M.A. 1978).

b. Materiality has been defined by the Court of Military Appeals as embracing the "'reasonable likelihood' that the evidence could have affected the judgment of the military judge or court members." *United States v. Hampton*, 7 M.J. 284, 285 (C.M.A. 1979). Materiality of a

witness turns on whether the witness's testimony "either negates the Government's evidence or supports the defense." *U.S. v. Allen*, 31 M.J. 572, 610 (N.M.C.R. 1990). If so, then the witness is material. A witness is "necessary" when the testimony "would contribute to a party's presentation of the case in some positive way on a matter in issue." *United States v. Breeding*, 44 M.J. 345, 350 (1996).

c. The factors relevant to whether the personal appearance of a witness should be compelled were stated in *United States v. Allen*, 31 M.J. 572 (N.M.C.M.R. 1991), *aff'd*, 33 M.J. 209 (C.M.A. 1991), *cert. denied*, 112 S.Ct 1473 (1992). They are:

(1) The issues involved in the case and importance of requested witness to those issues;
(2) Whether the witness was desired on the merits or sentencing;
(3) The availability of the witness or alternatives to live testimony;
(4) The military status of the witness;
(5) Whether compelling the witness's appearance would interfere with mission accomplishment; and
(6) Whether the witness's testimony would be cumulative.

Each of these factors warrants production of the requested witnesses in this case. The requested witnesses can provide testimony related to relevant character traits such as peacefulness and law-abidingness. The accused is charged with an orders violation, murder, and involuntary manslaughter, which raises questions of judgement and law-abidingness. The testimony of these witnesses would focus on combating those aspects of the charges in order to present a complete picture of the accused to the fact finder. R.C.M. 703 states the prosecution and defense should have equal opportunity to obtain witnesses and evidence included the benefit of the compulsory process. ...each party is entitled to the production of witnesses whose testimony on a matter in issue on the merits or on an interlocutory question would be relevant and necessary. (MCM 2023 ed). Each of the character witnesses listed below can provide relevant testimony, i.e., contribute to Cpl Bopp's presentation of his case, because they can

provide evidence to the finder of fact about his character and that he follows the rules and exercises good judgement.

All of the requested witnesses are also relevant and necessary in the event Cpl Bopp is convicted. Rules for Court Martial (R.C.M.) 703(b)(2) states "each party is entitled to the production of a witness whose testimony on sentencing is required under R.C.M. 1001(e)." R.C.M. 1001(e)(2)(E) states "a witness may be produced to testify during presentence proceedings through a subpoena or travel orders at Government expense only if...(E) The significance of the personal appearance of the witness to the determination of an appropriate sentence, when balanced against the practical difficulties of producing the witness, favors production of the witness."

The defense requests that the court order the production of the following witnesses:

Maureen Bopp.

Mrs. Bopp is Cpl Bopp's mother, knowing him his entire life and raising him. She was involved in his extracurricular activities to include Boy Scouts, his academics in school to include a trip to Belize to partake in a tutoring program based on his school performance, and athletics throughout his adolescence. Mrs. Bopp has a unique relationship with Cpl Bopp being his mother and raising him. Her opinion of his demeanor and law-abidingness stems from her perception of his behavior at home and her first-hand accounts of his good conduct. Her opinion of his rehabilitative potential stems from her personal observations and interactions with Cpl Bopp. She is not cumulative with any other witness requested based on this unique relationship she's fostered with Cpl Bopp. Within the Government's response, they support her providing telephonic testimony, which indicates that they also believe she is relevant, necessary, and not cumulative. However, Cpl Bopp has the right to in-person testimony from his witnesses, not

only on the merits, but also in sentencing. Based on these reasons, Mrs. Bopp should be produced.

Thomas Bopp.

Mr. Bopp is Cpl Bopp's father and has known him his entire life as he helped raise him. Mr. Bopp has had the opportunity to observe Cpl Bopp throughout his childhood into adolescence and since entering adulthood. Throughout his upbringing, Mr. Bopp was personally involved with Cpl Bopp's Boy Scouts experience, serving as his Troop's Leader. Even after Cpl Bopp graduated high school, Mr. Bopp was able to observe him in a professional setting as they both worked on a General Contracting Crew run by Mr. Bopp's childhood friend. Mr. Bopp has formed a unique relationship with Cpl Bopp and one in which he's had the opportunity to observe him and interact with him both on a personal level and a professional. His opinion of Cpl Bopp's demeanor and character for law-abidingness stems from these interactions and observations, as does his opinion of Cpl Bopp's rehabilitative potential should it be required in a sentencing hearing. The Government in their response has acknowledged the relevance of Mr. Bopp's testimony agreeing to allow him to testify telephonically. Based on their response, it is clear that the Government does not believe his testimony to be cumulative. However, Cpl Bopp has the right to in-person testimony from character witnesses and based on these aforementioned reasons, Mr. Bopp should be produced.

Delany Bopp.

Ms. Bopp is Cpl Bopp's older sister by four (4) years so she has known Cpl Bopp his entire life. While some siblings grow up without a close bond, Ms. Bopp and Cpl Bopp formed an incredibly close relationship, one that continues to the present day. Growing up with Cpl Bopp, Ms. Bopp has had the opportunity to observe him at home, at school, through his

extracurricular activities, and as her younger brother. As they've remained close throughout the years, Ms. Bopp has formed a unique relationship with Cpl Bopp that is different from her parents, teachers, or friends. Based on this, she is able to offer a different perspective of Cpl Bopp as it relates to his demeanor, character for law-abidingness, and rehabilitative potential, if necessary. The Government has agreed to allow her to participate telephonically and did not outright deny her testimony, and based on this response, it indicates that they believe her testimony to be relevant, necessary, and not cumulative. However, Cpl Bopp has the right to in-person testimony, and based on these aforementioned reasons, we request that Ms. Bopp be produced.

Annie Matte.

Ms. Matte has been a close family friend of the Bopps for fourteen (14) years. While she and Ms. Bopp are best friends, she has become an extension of the family. Ms. Matte had spent a significant amount of time with the Bopp family, during holidays, attending family functions, vacations, and even residing with the Bopp family during a difficult time in her own life. As close as Ms. Bopp and Cpl Bopp were growing up, Ms. Matte became a second sister to Cpl Bopp and formed the same close bond with him as his sister. However, this bond is different in that Ms. Matte is not related to Cpl Bopp by blood, therefore, the difference between her and Ms. Bopp and the relationships they have both fostered with Cpl Bopp have led to different perspectives of Cpl Bopp and his character. Her opinion of his demeanor, character for law-abidingness and rehabilitative potential, if necessary are formed from this unique relationship and the Government agrees that her testimony is necessary, relevant, and not cumulative, as they have agreed to telephonic testimony. However, Cpl Bopp has the right to in-person testimony and based on these reasons, Ms. Matte should be produced.

Bridget Geboy Helfenstein.

Ms. Geboy Helfenstein has known Cpl Bopp since his adolescence and high school when she was his Spanish teacher. She had the opportunity to observe Cpl Bopp not only as a student but as a volunteer when he earned the opportunity through his volunteer work in the Rotary Club at the school to travel to Belize to help children with tutoring and donations for school. Based on these interactions and the relationship developed with Cpl Bopp, Ms. Geboy Helfenstein has a different perspective of him as it relates to both his demeanor, character for law-abidingness and rehabilitative potential, if necessary. The Government agrees as they noted that they would agree to telephonic testimony, which indicates that they believe her testimony to be relevant, necessary, and not cumulative. Therefore, we request that she be produced as Cpl Bopp has the right to in-person testimony.

Jessica Santiago.

Ms. Santiago has known Cpl Bopp since high school when he was one of her students in Spanish class. She's had the opportunity to observe him both as one of her students and outside of the classroom on a trip to Belize when Cpl Bopp earned the opportunity to volunteer as part of the school's Rotary Club to offer tutoring and school supplies to kids in a local community. Ms. Santiago has had the opportunity to form a unique relationship with Cpl Bopp based on these different interactions, leading to a different perspective on his demeanor, character for law-abidingness and rehabilitative potential, if necessary. The Government agreed to allow telephonic testimony, therefore, by not denying her outright as a witness, they believe that the testimony she would offer is relevant, necessary, and not cumulative with any other requested witness. Based on these reasons, Ms. Santiago should be produced.

4. Evidence and Burden of Proof. The Defense has the burden of proof by a preponderance of the evidence. The following attachments are offered in support of this motion:

Enclosure (1): Defense Witness Request
Enclosure (2): Government Response
Enclosure (3): Supplement to Defense Witness Request
Enclosure (4): Character Witness Affidavits (pending)

5. Relief Requested. The Defense moves the Court to compel the Government to produce the witnesses for trial.

6. Argument. The defense does desire oral argument.

[redacted]

Eric M. Kopka
Attorney at Military Law
Civilian Defense Counsel

****

Certificate of Service

I hereby attest that a copy of the foregoing motion was served electronically on the court and opposing counsel on 31 July 2024.

[redacted]

Eric M. Kopka
Attorney at Military Law

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UNITED STATES MARINE CORPS
CAMP LEJEUNE BRANCH, EASTERN REGION
MARINE CORPS DEFENSE SERVICES ORGANIZATION
PSC BOX 20005
CAMP LEJEUNE, NORTH CAROLINA 28542-0005

IN REPLY REFER TO
5800
DSO/jlm
10 July 2024

From: Captain Jessica L. McLaughlin, USMC, Detailed Defense Counsel
To: Trial Counsel

Subj: DEFENSE REQUEST FOR PRODUCTION OF WITNESSES IN THE CASE OF U.S. V CORPORAL JESSE BOPP, USMC

Ref:(a) RCM 703
(b) UCMJ Arts 46, 47
(c) Brady v. Maryland 373 US 83 (1963)
(d) Jenks Act 8 USC 3500
(e) Giglio v. U.S. 405 US 150

1. Defense requests the following witnesses:
   a. Maureen Bopp, [redacted] New Berlin, WI. Cpl Bopp's mother. Character/sentencing witness.
   b. Tom Bopp, [redacted] New Berlin, WI. Cpl Bopp's father. Character/sentencing witness.
   c. Annie Matte (Bopp), [redacted], Des Moines, Iowa. Cpl Bopp's sister. Character/sentencing witness.
   d. Delany Bopp, [redacted] New Berlin, WI. Cpl Bopp's sister. Character/sentencing witness.
   e. Bridget Geboy Helfenstein, [redacted] New Berlin, WI. Cpl Bopp's high school Spanish teacher. Character/sentencing witness.
   f. Jessica Santiago, [redacted] New Berlin, WI. Cpl Bopp's high school Spanish teach. Character/sentencing witness.

2. Additionally, Defense requests production of all the anticipated Government witnesses notated on the Government's witness list.

3. Defense is currently working with expert consultants. Defense will advise both the Government counsel and the Court if such witnesses are to be declared expert witnesses.

4. Defense reserves the right to supplement our witness request with regards to both the merits and sentencing. Additionally, on 8 July 2024, Mr. Eric Kopka was retained as a Civilian Defense Counsel (CDC) by Cpl Bopp. Once given ample opportunity to review the discovery, Mr. Kopka reserves the right to supplement this request.

AE XU
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Enclosure (1)

[redacted]

J.L. MCLAUGHLIN
Captain, U.S. Marine Corps
Detailed Defense Counsel

****

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above request was served upon trial counsel via email on 10 July 2024.

[redacted]

J.L. MCLAUGHLIN
Captain, U.S. Marine Corps
Detailed Defense Counsel

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DEPARTMENT OF THE NAVY
MARINE CORPS OFFICE OF SPECIAL TRIAL COUNSEL – MCB CAMP LEJEUNE
MARINE CORPS BASE CAMP LEJEUNE
PSC BOX 20010
CAMP LEJEUNE, NC 28542-0010

5811
OSTC/jds
24 Jul 24

From: Special Trial Counsel
To: Civilian Defense Counsel

Subj: GOVERNMENT RESPONSE TO DEFENSE INITIAL REQUEST FOR PRODUCTION OF WITNESSES IN THE CASE OF U.S. V CORPORAL JESSE T. BOPP, USMC

Ref: Defense Request for Production of Witnesses ICO U.S. v. Corporal Jesse T. Bopp, USMC, dtd 10 Jul 24

1. The Government response to the Defense requested witnesses is included below. The Government notes that the Defense did not provide a synopsis of testimony for any witness as required by RCM 703(c)(2)(B):

2. Requested Witnesses:

a. Maureen Bopp: DENIED. Pursuant to RCM 703(c)(2)(B)(i), this witness' testimony is not relevant or necessary on the merits. Pursuant to RCM 1001(f)(2), this witness' testimony is not a matter of substantial significance to a determination of an appropriate sentence and telephonic testimony is a sufficient means to meet the needs of the court-martial at sentencing. The Government will not object to the Defense receiving telephonic testimony from this witness in pre-sentencing.

b. Thomas Bopp: DENIED. Pursuant to RCM 703(c)(2)(B)(i), this witness' testimony is not relevant or necessary on the merits. Pursuant to RCM 1001(f)(2), this witness' testimony is not a matter of substantial significance to a determination of an appropriate sentence and telephonic testimony is a sufficient means to meet the needs of the court-martial at sentencing. The Government will not object to the Defense receiving telephonic testimony from this witness in pre-sentencing.

c. Annie Matte: DENIED. Pursuant to RCM 703(c)(2)(B)(i), this witness' testimony is not relevant or necessary on the merits. Pursuant to RCM 1001(f)(2), this witness' testimony is not a matter of substantial significance to a determination of an appropriate sentence and telephonic testimony is a sufficient means to meet the needs of the court-martial at sentencing. The Government will not object to the Defense receiving telephonic testimony from this witness in pre-sentencing.

d. Delany Bopp: DENIED. Pursuant to RCM 703(c)(2)(B)(i), this witness' testimony is not relevant or necessary on the merits. Pursuant to RCM

1001(f)(2), this witness' testimony is not a matter of substantial significance to a determination of an appropriate sentence and telephonic testimony is a sufficient means to meet the needs of the court-martial at sentencing. The Government will not object to the Defense receiving telephonic testimony from this witness in pre-sentencing.

e. Bridget Geboy Helfenstein: DENIED. Pursuant to RCM 703(c)(2)(B)(i), this witness' testimony is not relevant or necessary on the merits. Pursuant to RCM 1001(f)(2), this witness' testimony is not a matter of substantial significance to a determination of an appropriate sentence and telephonic testimony is a sufficient means to meet the needs of the court-martial at sentencing. The Government will not object to the Defense receiving telephonic testimony from this witness in pre-sentencing.

f. Jessica Santiago: DENIED. Pursuant to RCM 703(c)(2)(B)(i), this witness' testimony is not relevant or necessary on the merits. Pursuant to RCM 1001(f)(2), this witness' testimony is not a matter of substantial significance to a determination of an appropriate sentence and telephonic testimony is a sufficient means to meet the needs of the court-martial at sentencing. The Government will not object to the Defense receiving telephonic testimony from this witness in pre-sentencing.

3. Pursuant to RCM 703(c)(2)(A), the Government does not agree to produce any witnesses the Defense has not specifically requested above to include any witness the Government has noticed on its preliminary witness list, as that list is not a basis for relevance or necessity and is subject to change.

4. If the Defense wishes to provide a synopsis of testimony in accordance with RCM 703(c)(2)(B)(i) or (ii), outlining the relevance and necessity of a requested witness, or the witness' substantial significance to a determination of an appropriate sentence, the Government will reconsider the Defense request for that witness.

5. The point of contact for this notice is the undersigned at 910-451-9725 or jason.d.samuel.mil@usmc.mil.

[redacted]

J. D. SAMUEL
Major, U.S. Marine Corps
Special Trial Counsel Team Lead

ERIC M. KOPKA
ATTORNEY AT MILITARY LAW
This law firm practices in military tribunals worldwide and does not practice in the state court system of North Carolina.
825 GUM BRANCH ROAD, SUITE 117
JACKSONVILLE, NORTH CAROLINA 28540
TELEPHONE: (910) 455-6300
FACSIMILE: (910) 455-3012
WEBSITE: militaryuslawyers.com
EMAIL: [redacted]

ERIC M. KOPKA
RHODE ISLAND,
WASHINGTON, D.C.;
UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES;
NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS

30 July 2024

From: Eric M. Kopka, Major Rehak and Captain McLaughlin, USMC, Defense Counsel
To: Major Samuel, USMC, Trial Counsel

Subj: SUPPLEMENT TO THE DEFENSE WITNESS REQUEST IN THE CASE OF CPL BOPP, U.S. MARINE CORPS

Ref: (a) RCM 703
(b) UCMJ Arts 46, 47
(c) Brady v. Maryland 373 US 83 (1963)
(d) Jenks Act 8 USC 3500
(e) Giglio v. U.S. 405 US 150

1. The following witnesses are civilians that are not in the local area. They will require government notification and funding to appear, and testify, at the General Court-Martial.

a. Maureen Bopp
New Berlin, WI

Phone [redacted]

Mrs. Bopp is Cpl Bopp's mother. As his mother she will provide testimony regarding her opinion of Cpl Bopp's character for law-abidingness as he was involved in boy scouts, academics, an international tutoring program in Belize, and athletics throughout his adolescent years. In the event of sentencing, she will provide testimony regarding her opinion of Cpl Bopp's rehabilitative potential and continued family support.

b. Thomas Bopp
New Berlin, WI

Phone: [redacted]

Mrs. Bopp is Cpl Bopp's father. As his father he will provide testimony regarding his opinion of Cpl Bopp's character for law-abidingness as he was involved in boy scouts (his father was his Troop Leader), academics, an international tutoring program in Belize, and athletics throughout his adolescent years. In the event of sentencing, he will provide testimony regarding his opinion of Cpl Bopp's rehabilitative potential and continued family support.

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c. Delany Bopp
New Berlin, WI

Phone: [redacted]

Ms. Bopp is Cpl Bopp's sister. As his older sister and only sibling she will provide testimony regarding her opinion of Cpl Bopp's character for law-abidingness. She will speak to his commitment to volunteer work and academics, along with his work ethic and demeanor. In the event of sentencing, she will provide testimony regarding her opinion of Cpl Bopp's rehabilitative potential and continued family support.

d. Annie Matte
Des Moines, Iowa

Phone: [redacted]

Mrs. Matte, is a close family friend to Cpl Bopp, who he considers a sister. Mrs. Matte has known the Bopp family for over (14) years. She has spent holidays, weekends and vacations with the Bopp family. She will provide testimony regarding her opinion of Cpl Bopp's character for law-abidingness. In the event of sentencing, she will provide testimony regarding her opinion of Cpl Bopp's rehabilitative potential and continued family support.

e. Bridget Geboy Helfenstein
New Berlin, WI

Phone: [redacted]

Mrs. Geboy Helfenstein was one of Cpl Bopp's Spanish teachers in High School and has known him for years. As his teacher she will provide testimony regarding her opinion of Cpl Bopp's character for law-abidingness as he was involved in an international tutoring program in Belize that she attended as well. In the event of sentencing, she will provide testimony regarding her opinion of Cpl Bopp's rehabilitative potential and continued family support.

f. Jessican Santiago
New Berlin, WI

Phone: [redacted]

Mrs. Santiago was one of Cpl Bopp's Spanish teachers in High School and has known him for years. As his teacher she will provide testimony regarding her opinion of Cpl Bopp's character for law-abidingness as he was involved in an international tutoring program in Belize that she attended as well. In the event of sentencing, she will provide testimony regarding her opinion of Cpl Bopp's rehabilitative potential and continued family support.

2. The defense anticipates filing a supplemental witness request pending confirmation of the pending motion to amend and availability of witnesses.

3. The witnesses are all relevant on the merits of the case as the issue of character will be material to the defense, so their personal appearance is essential. These witnesses are also relevant and necessary for sentencing. Additionally, telephonic testimony, as suggested by the trial counsel is not sufficient.

4. The defense reserves the right to supplement our witness request with regards to both the merits and sentencing.

5. It is also requested that the government provide the defense with a list of witnesses the government intends to call, and a brief synopsis of their expected testimony.

[redacted]

Eric M. Kopka
Civilian Defense Counsel

CERTIFICATE OF SERVICE

I certify that I have delivered a copy of the foregoing document, by email, to the trial counsel, this 30th day of July 2024.

[redacted]

Eric M. Kopka
Attorney at Military Law

Jessica Santiago
[redacted]
Phone: [redacted]

Sir,

My name is Jessica Santiago and I was Corporal Jesse Bopp's Spanish teacher in high school. I am currently beginning my 23rd year as a Spanish teacher, now working in the School District of New Berlin after 14 years working at the West Allis-West Milwaukee School District (WAWM) at Nathan Hale High School, where Jesse attended. I also teach a dual enrollment Intro to Education course and am Advisor of Educators Rising. I continue to lead and chaperone local and international field trips for students.

I was Jesse's teacher for Spanish 3, which would have been his freshman or sophomore year of high school, in 2013-14 or 2014-15. Jesse was a kind and courteous class member, always offering to be helpful to me and to his classmates. He was a quiet student in that he is introspective, observant, and careful before contributing to a class discussion, and always respectful to the classroom environment. During the time he was my student, I remember that he was learning to play the guitar and valued spending time with his family. I got to know his family well from parent-teacher conferences, open house nights, and other school events through the years of teaching Jesse as well as his older sister Delaney, whom Jesse greatly admired. I recall Jesse participated in volunteer service either with his family or through other high school clubs/groups.

Jesse effectively showed perseverance alongside a positive attitude in a new environment during the 2017 school trip to Guatemala and Belize, for which I was a chaperone. While abroad, he intentionally spent time with his host family communicating and interacting completely in Spanish for one week. He participated in 20 hours of intensive Spanish classes, used critical thinking skills and resourcefulness to solve problems and make decisions during independent time in Antigua and San Pedro, and demonstrated leadership and compassion while volunteering at the Santa Elena Elementary School in Belize. I saw Jesse being patient and adaptable when changes happened to the itinerary, and supportive of his peers as they navigated their own travel experiences. He is a student of integrity who can be trusted with the responsibility of representing his school, state, and country while abroad. The knowledge and experience that Jesse gained from international study/travel can be applied to all aspects of his life after high school and in the military.

Overall, I have had the opportunity in his twenty-four (24) years of life to observe his demeanor, character for law-abidingness, and peacefulness, and am able to offer testimony regarding those character traits. Further, in the event of sentencing, I will be able to provide testimony regarding my continued support for Jesse and his rehabilitative potential.

I understand that the trial is currently scheduled for 22 January-7 February 2025 and will be available to attend those proceedings.

Respectfully,

Jessica Santiago

[redacted] 8-8-2024

AE XLI

page 2, letter of Affidavit, Jessica Santiago

State of Wisconsin

Milwaukee County

Sworn to and subscribed before me this 8 day of August, 2024.

[redacted]

Notary Public

My commission ends: 08/03/2027

GERARDO OROZCO NOTARY PUBLIC STATE OF WISCONSIN

AE XLI

Pg 9 of 15

Bridget Geboy-Helfenstein

[redacted]

Phone: [redacted]

Sir,

My name is Bridget Geboy-Helfenstein and I was one of Corporal Jesse "Domingo" Bopp's Spanish teachers at Nathan Hale High School. I have recently retired after 33.5 years as a Spanish teacher, Senior Class Advisor, Study/Travel Trip Leader, Spanish National Honor Society Hale chapter founder and advisor, and the American Association of Teachers of Spanish and Portuguese-WI chapter President. This school year I will be changing gears and attending Waukesha Technical College to earn a certificate as a medical interpreter for my second career. I am a certified professional Red Cross lifeguard at a local gym where I work with many young and old people. I also served my country for 2.3 years as a United States Peace Corps Volunteer in Honduras '88-'90.

I had the honor of teaching Jesse for 2 years in his upper-level Spanish classes during which I witnessed the dedicated, conscientious and smiling student that he was. When we needed to create a final exam scrapbooking project, Jesse self-identified as a faithful yet stubborn, calm and funny young man who enjoyed participating in charity events as a volunteer for the poor, an athlete rather than a spectator, a creator of jokes and stories, the pride of his grandfather, a future Marine, an earner of a good life, a thinker and a leader, a fan of novels, a world traveler, the owner of a guitar, and the son of parents who want him to try hard and do his best in his life. I am translating this from a poem that I have before me in Spanish right now. I also have a sample with photos of Jesse of an assignment prompt that he wrote which says: "One must conquer challenges in order to achieve goals." An additional assignment that we created was in regards to song lyrics telling what we would give a toast too as we ended the calendar year. Jesse's poster toasted "times you don't remember with people you'll never forget." Please see the two photos below of Jesse's work. These are a literary illustration of the young man who I know from the classroom. For a high school boy, Jesse Bopp was a deep and profound thinker who was not afraid to show his true self to his teacher and classmates.

In addition to the classroom, I knew Jesse as a phenomenal participant in my 9th study/travel trip to Guatemala and Belize in 2017. He lived in a Antigua, Guatemala homestay with another young man and also roomed with my son of the same age in the hotels. When I asked my son to describe Jesse Bopp, my son Elijah immediately said, "he is kind and caring, trustworthy and loyal." Jesse was indeed a leader on that trip. He listened intently to the tour guides to learn as much about the country and people that he could. He bonded with the many students that he did not know well previously and he enjoyed spending time and joking around with my sons and husband. He was respectful and helpful in situations that were challenging while traveling with a bunch of teens. Jesse made a positive impact on his Guatemalan teachers and was trusted to make good decisions when he had free time after the school day ended and he was in a group with teens. He was strong, athletic and determined in his fitness as he balanced on the top of a 4-foot tree stump after hiking up the Pacaya Volcano. I am so happy that he chose to travel and study and embrace other cultures with me as a teen.

I know Jesse's sister, Delaney, because she also studied under me and traveled with me. I know Jesse's parents because they were involved in their children's education at open houses and parent/teacher conferences and most importantly, attended all of the 6 study travel preparation meetings for both of their children. I have known the Bopp family for about fifteen years. Jesse's parents raised Jesse to be an excellent contributor to our community, country and world citizen.

Overall, I have had the opportunity in his twenty-four (24) years of life to observe his demeanor, character for law-abidingness, and peacefulness, and am able to offer testimony regarding those character traits. Further, in the event of sentencing, I will be able to provide testimony regarding my continued support for Jesse and his rehabilitative potential.

I understand that trial is currently scheduled for 22 January-7 February 2025 and will be available to attend those proceedings.

Respectfully,

[redacted]

Bridget Geboy Helfenstein

State of Wisconsin

Waukesha County

Sworn to and subscribed before me this 11th day of August, 2024.

[redacted]

YUNHEE JIN PARK
Notary Public
State of Wisconsin

Notary Public

My commission ends: 9-8-2027





AE XLI

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Annie Matte
[redacted]
Phone: [redacted]

Sir,

My name is Annie Matte and I am a close friend to Corporal Jesse Bopp. I am currently in the process of starting my own business as a freelance editor and accessibility consultant. My family has a military service record that dates back to the Civil War, where my four times great-grandfather was injured at the Battle of Shiloh. I was sent a full scholarship to attend West Point, but my life led me down a different path. Inspired by my father, I pursued a career helping Americans with disabilities vote, access public buildings, and maintain involvement in their communities.

I have known the Bopp family for 14 years. I met Jesse several months after I befriended his sister, Delany in 2010, when he was around 11 years old. The Bopps have been a positive influence on my life ever since, and they have all treated me with kindness, generosity, and understanding. I didn't have much when I was a child, but the Bopps took me under their wing and shared their meals, home, holidays, and vacations with me. When my life was upended by my father's death in June 2015, the Bopps welcomed me into their home as one of their own. During a holiday visit later that same year, Jesse was one of the first to tell me that I was like family to him. Since then, Jesse has been like a brother to me and we have a typical sibling relationship where we both gently tease, hang out, and genuinely love and support each other. When he told me that he referred to me as his adopted sister while on base, it meant the world to me. Jesse isn't the most verbose person, he shows how much he cares with small gifts out of the blue that lets others know he is thinking about them. He is always willing to listen and hear out what someone has to say. Jesse is an intelligent, strong, caring person, even when he doesn't know how to put his care into words. Jesse aspired to be like his grandfathers, who both served our country in times of need. He joined the Marines and I have been exceedingly proud of him for his resolve. Since he became a Marine, I know that he suffered the loss of some close friends in a 2015 helicopter crash. He would reach out to me around the anniversary most years to talk about them and share stories. My little brother tries his best to help those around him and make everyone feel welcome. He likes animals, spending time in nature, camping, reading, and fixing things. After he enlisted, he would keep in contact by staying up late talking with friends and loved ones to hear them out and offer advice. Overall, I have had the opportunity in his twenty-four (24) years of life to observe his generally calm demeanor, character for law-abidingness, and peacefulness, and am able to offer testimony regarding those character traits. Further, in the event of sentencing, I will be able to provide testimony regarding my continued support for Jesse and his rehabilitative potential.

I understand that the trial is currently scheduled for 22 January-7 February 2025 and will be available to attend those proceedings.

Respectfully,

[redacted]

Annie Matte

AE XLI

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State of Iowa

Polk County

Sworn to and subscribed before me this 6th day of August, 2024.

[redacted]

Notary Public

My commission ends: 9/22/2026

CARLENE SUHR
Commission Number 850994
My Commission Expires
September 22, 2026

AE XL

Pg 13 of 15

Delany Bopp

[redacted]

Phone: [redacted]

Sir,

My name is Delany Bopp and I am Corporal Jesse Bopp's older sister. I am currently working at Pindel Global Precision in New Berlin, Wisconsin; I am responsible for accounts payable, certain other accounting functions, and general office tasks. I attended high school at Nathan Hale in West Allis, the same as my dad and my brother. I also attended the University of Wisconsin-Milwaukee and earned my Bachelor of Science in Geology. I've always loved nature, animals, art, music, and many other things, but nothing above my family. Throughout my life I've enjoyed hobbies such as reading, drawing, painting, jewelry making, playing video games (especially with my brother and my best friend, Annie), being outside in nature, caring for my pets, studying about animals and rocks/fossils, and spending time with my family; these days I try my best to make time for all of these things whenever I can outside of my working hours. Jesse and I share a lot of these interests and throughout the years growing up we've spent time doing these things together. Jesse has always, and continues to, inspire me to be better and to pursue these things that fulfill me. Most recently, I've been using Jesse as my main inspiration to improve my physical health; I've majorly changed my eating habits and am working on getting more active, and as a result I have lost over 30lbs so far. As soon as Jesse had first decided to enlist, he began eating healthier and following an intense workout routine, which he has maintained over the last few years, in order to be physically able to perform his job and his duties as a Marine; this has always inspired me. My brother and I shared a great childhood thanks to our amazing parents, who've always given us every opportunity, treated us with love and respect, and have nurtured an environment in which all four of us could not be any closer or more supportive of one another. Our family has plenty of history of members enlisting in the armed forces and serving this country, all of which I believe inspired my brother and led him on the path to finally enlisting in the Marine Corps. On my dad's side, his father Roland Bopp served in WWII and was a POW for the last 10 months of the war after being shot down over Germany. Roland also had many brothers who also served WWII, the Korean War, and Vietnam. On my mom's side, her father, Robert Horning, served in the army in the Korean War, her brother Rob in the Navy for 20 years, her sister in the Army, and her uncle in WWII as well. I believe all of these family members, but especially my brother and I's grandfathers, were the main inspiration for Jesse to enlist in the Marine Corps, as he wanted to follow in their footsteps and do what he could to serve and protect this country.

In addition to Jesse and I being siblings, I would consider him to be one of my best and one of only few friends in this world; we are extremely close. We are just five years apart in age and have grown up our entire lives together. Throughout our years growing up, we have genuinely always gotten along, and spent time doing things together often, like playing lots of video games. Jesse had even developed a close bond with my best friend from high school, Annie Matte, who he even considers to be another sibling. There are many truths about Jesse that have never changed: he is smart, he is resilient, he is kind, he is hardworking, he is humble, he is selfless, and he is genuine. He has done extremely well in school

throughout his life, including throughout the schooling and examinations he had upon enlisting in the Marine Corps. Even outside of school, he has always been quite practical and good at solving and working through problems. When presented with situations that are difficult, which our family, as well as Jesse as an individual have experienced, I have always watched him do the work to come through it and come out on the other side successfully. Since enlisting in the Marine Corps, I have watched him adapt to new situations, face challenges, find success, and form meaningful friendships. Jesse was proud to follow his grandparents and other family members' footsteps in joining the military and we are all extremely proud of the things he has accomplished in his life thus far. I have also always known him to be just genuinely good and gentle at the core. Overall, I have had the opportunity in his twenty-four (24) years of life to observe his demeanor, character for law-abidingness, and peacefulness, and am able to offer testimony regarding those character traits. Further, in the event of sentencing, I will be able to provide testimony regarding my continued support for Jesse and his rehabilitative potential.

I understand that trial is currently scheduled for 22 January-7 February 2025 and will be available to attend those proceedings.

Respectfully

[redacted]

Delany Bopp

State of Wisconsin

Milwaukee County

Sworn to and subscribed before me this 5th day of August, 2024.

[redacted]

Notary Public

My commission ends: 10-11-2024

CHRISTOPHER ZILLMER
Notary Public
State of Wisconsin

My commision
expires 10/11/2024

AE XLI

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DEPARTMENT OF THE NAVY
NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES v. JESSE T. BOPP CORPORAL/E-4 U.S. MARINE CORPS	**GOVERNMENT RESPONSE TO DEFENSE MOTION TO COMPEL PRODUCTION OF WITNESSES** 7 August 2024

1. Nature of Filing.

The Government responds to the Defense Motion to Compel Production of Witnesses requesting that this Court deny the motion because the additional witnesses are cumulative on the merits, and alternative means of testimony are sufficient for the sentencing proceeding.

2. Summary of Facts.

On 18 October 2023, the Corporal Jesse T. Bopp shot and killed Lance Corporal A.S. On 5 March 2024, the accused was arraigned on charges of Article 118(3) Murder, Article 119 Involuntary Manslaughter, and Article 92 Violation of a Lawful Order. On 22 March 2024, the Military Judge established a Trial Management Order (TMO). On 29 May 2024, the Military Judge modified the TMO to include a defense lay witness request deadline, and a government response. On 10 July 2024, the Defense submitted its request for six witnesses: three immediate family members of the accused, one close family friend, and two of the accused's high school teachers. On 24 July 2024, the Government denied all of the requested witnesses because: 1) the Defense did not provide a synopsis of testimony for any witness, 2) Pursuant to RCM 703(c)(2)(B)(i), none of the witnesses' testimony were relevant or necessary on the merits, and 3) Pursuant to RCM 1001(f)(2), production of the witnesses for in-person

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testimony at sentencing would not be of substantial significance to a determination of an appropriate sentence and alternate means of testimony would be sufficient to meet the needs of the court-martial. On 31 July 2024, the Defense served a supplemental witness request on the Government. In that request, the Defense requested the same witnesses, but provided a synopsis of expected testimony. On 31 July 2024, the Government denied this request. On 5 August 2024, the Government amended its response and granted two of the six witnesses, and denied the others as cumulative. The Defense filed its Motion to Compel Production of Witnesses on 31 July 2024. The Government provides this filing in response.

3. **Law.**

"In a case referred for trial by court-martial, the trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the President may prescribe."[1] "Irrelevant evidence is not admissible."[2] "[A] defendant has no constitutional right, under a claim of due process, to a witness whose testimony would be merely cumulative to the testimony of other witnesses."[3] The "military judge may as a matter of discretion limit the number of witnesses called by either side to testify to the same matter if it appears that the testimony of the excluded witnesses would be merely cumulative."[4] "There is no right to physical attendance of a witness whose expected testimony would merely be cumulative to that of other witnesses."[5] Testimony that the accused has a good upbringing, is of good character, and has rehabilitative potential is not an extraordinary case requiring production of the witness.[6] "A witness may be

[1] Article 46, UCMJ.
[2] MRE 402(b).
[3] *United States v. Williams*, 3 M.J. 239, 242 (MAC 1977).
[4] *United States v. Harmon*, 40 M.J. 107, 108 (CAAF 1994).
[5] *United States v. Tangpuz*, 5 M.J. 426, 429 (MAC 1978)
[6] *United States v. Briscoe*, 56 M.J. 903, 906 (AFCCA 2002). "This does not appear to be an 'extraordinary case' requiring the production of a live witness. "The proffered testimony was that the appellant had a good upbringing,

produced to testify during presentencing proceedings through a subpoena or travel orders at Government expense ***only*** if—(A) the testimony of the witness is necessary for consideration of a matter of substantial significance to a determination of an appropriate sentence; (B) the weight or credibility of the testimony is of substantial significance to the determination of an appropriate sentence; (C) the other party refuses to enter into a stipulation containing the matters to which the witness is expected to testify, except in an extraordinary case when such a stipulation would be an insufficient substitute for the testimony; (D) other forms of evidence, such as oral depositions, written interrogatories, former testimony, or testimony by remote means would not be sufficient to meet the needs of the court-martial in the determination of an appropriate sentence; and (E) the significance of the personal appearance of the witness to the determination of an appropriate sentence, when balanced against the practical difficulties of producing the witness, favors production of the witness. Factors to be considered include the costs of producing the witness, the timing of the request for production of the witness, the potential delay in the presentencing proceeding that may be caused by the production of the witness, and the likelihood of significant interference with military operational deployment, mission accomplishment, or essential training."[7]

The additional witnesses requested by the Defense are cumulative with each other on the merits, and testimony by remote means is sufficient to meet the needs of the court-martial at sentencing. The Government did not concede that any of these witnesses were necessary and relevant for the Defense. The Government expressly believes that these witnesses are cumulative with each other as they will speak to the accused's law-abidingness, pre-military

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was of good character, and had rehabilitative potential. It does not appear to be the kind of information that could not be conveyed adequately through an appropriate stipulation."

[7] RCM 1001(f)(2).

service. The Government is not going to contest the proposed testimony that the accused was "law-abiding" prior to entering the service. Indeed, if the accused had not been law-abiding, he would have likely been denied enlistment. This testimony, however, is not material to the case. If law abidingness is deemed a pertinent character trait for, the accused would be entitled to put on character evidence. Yet, such testimony is unremarkable in relation to the charged offenses. With his father and mother already testifying on his behalf, the accused would have adequately presented his character evidence to the members.

Remote testimony is sufficient to meet the needs of the Court at sentencing. RCM 1001(f)(2) limits the Court from granting these witnesses in sentencing because the Government is amenable to a stipulation or remote testimony. Therefore, there is no need to produce them in person. Their testimony is not of substantial significance[8] where their personal appearance is required. Their testimony will proceed largely unchallenged, thus it is not material to the determination of an appropriate sentence.

4. **Relief Requested.**

The Government respectfully requests this Honorable Court to deny production of the additional requested witnesses on the merits and in sentencing.

5. **Evidence.**

Enclosure 1: Government Amended Response to Defense Supplemental Witness Request dtd 5 August 2024

[8] "That the mother believed that her son had rehabilitative potential and deserved leniency is not surprising. As pointed out in the Government's brief, most 'mothers display' remarkable 'forgiveness . . . when faced with the misdeeds of their own children.'" *United States v. Combs*, 20 M.J. 441, 443 n.2 (C.M.A. 1985)

6. **Oral Argument.** The Government requests to respond to oral argument by the Defense.

[redacted]

/Jason D. Samuel
Major, USMC
Special Trial Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Government Response to Defense Motion to Compel Production of Witnesses was served electronically on defense counsel on 7 August 2024.

[redacted]

/Jason D. Samuel
Major, USMC
Special Trial Counsel

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ENCLOSURE 1

Government Amended Response to
Defense Supplemental Witness Request
dtd 5 August 2024

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DEPARTMENT OF THE NAVY
MARINE CORPS OFFICE OF SPECIAL TRIAL COUNSEL – MCB CAMP LEJEUNE
MARINE CORPS BASE CAMP LEJEUNE
PSC BOX 20010
CAMP LEJEUNE, NC 28542-0010

5811
OSTC/jds
01 Aug 24

From: Special Trial Counsel
To: Civilian Defense Counsel

Subj: GOVERNMENT AMENDED RESPONSE TO DEFENSE SUPPLEMENTAL REQUEST FOR PRODUCTION OF WITNESSES IN THE CASE OF U.S. V CORPORAL JESSE T. BOPP, USMC

Ref: (a) Defense Request for Production of Witnesses ICO U.S. v. Corporal Jesse T. Bopp, USMC, dtd 10 Jul 24
(b) Supplement to the Defense Witness Request ICO U.S. v. Corporal Jesse T. Bopp, USMC, dtd 30 Jul 24
(c) Government Response to Defense Supplemental Request For Production Of Witnesses ICO U.S. v. Corporal Jesse T. Bopp dtd 31 Jul 24

1. The Government provides this amended response to the Defense as follows:

2. Requested Witnesses:

a. Maureen Bopp: GRANTED.

b. Thomas Bopp: GRANTED.

c. Annie Matte: DENIED. This witness is cumulative on the merits. Pursuant to RCM 1001(f)(2), this witness' testimony is not a matter of substantial significance to a determination of an appropriate sentence and telephonic testimony is a sufficient means to meet the needs of the court-martial at sentencing. The Government is willing to stipulate to her testimony, and will not object to alternative means of testimony from this witness in pre-sentencing.

d. Delany Bopp: DENIED. This witness is cumulative on the merits. Pursuant to RCM 1001(f)(2), this witness' testimony is not a matter of substantial significance to a determination of an appropriate sentence and telephonic testimony is a sufficient means to meet the needs of the court-martial at sentencing. The Government is willing to stipulate to her testimony, and will not object to alternative means of testimony from this witness in pre-sentencing..

e. Bridget Geboy Helfenstein: DENIED. This witness is cumulative on the merits. Pursuant to RCM 1001(f)(2), this witness' testimony is not a matter of substantial significance to a determination of an appropriate sentence and telephonic testimony is a sufficient means to meet the needs of the court-martial at sentencing. The Government is willing to stipulate to her testimony, and will not object to alternative means of testimony from this witness in pre-sentencing.

f. Jessica Santiago: DENIED. This witness is cumulative on the merits. Pursuant to RCM 1001(f)(2), this witness' testimony is not a matter of substantial significance to a determination of an appropriate sentence and telephonic testimony is a sufficient means to meet the needs of the court-martial at sentencing. The Government is willing to stipulate to her testimony, and will not object to alternative means of testimony from this witness in re-sentencing.

3. Pursuant to RCM 703(c)(2)(A), the Government does not agree to produce any witnesses the Defense has not specifically requested above to include any witness the Government has noticed on its preliminary witness list, as that list is not a basis for relevance or necessity and is subject to change.

4. The point of contact for this notice is the undersigned at 910-451-9725 or jason.d.samuel.mil@usmc.mil.

[redacted]

J. D. SAMUEL
Major, U.S. Marine Corps
Special Trial Counsel Team Lead

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NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES v. JESSE BOPP CORPORAL USMC	DEFENSE MOTION IN LIMINE TO EXCLUDE EVIDENCE LISTED IN GOVERNMENT'S MRE 304(f) and MRE 404b, & MRE 406 NOTICE 31 July 2024

SUMMARY

The Government notified Defense of its intent to introduce at trial evidence under Military Rules of Evidence (M.R.E.) 304(f), 404(b), and 406. The Defense objects to the evidence listed in the notification and moves this Court to exclude it under M.R.E 404(b).

FACTS

1. On 17 June 2024, the Government provided Defense with notice of its intent to admit additional 404(b) evidence. [Encl (A)].
2. Specifically, the Government notified Defense that Cpl Bopp pointed a loaded weapon at LCpl Dickinson. LCpl Dickinson told Cpl Bopp not to do so, to which Cpl Bopp stated, "I'm sorry." [Encl (B)].
3. The Government specifically states that "I'm sorry" shows that Cpl Bopp "was mentally able to understand that pointing a loaded weapon at another human being was dangerous and inappropriate." [Encl (A)].
4. On 19 July 2024, the Government provided Defense with notice of its intent to admit evidence under MRE 304, M.R.E 404(b), and MRE 406. [Encl (B)]

5. Specifically, the Government intends to introduce evidence that Cpl Bopp has a "philosophical belief" that his firearm should remain in condition 1. [Encl (C)].

BURDEN OF PROOF

Pursuant to R.C.M. 905(c), the burden of proof is a preponderance of the evidence standard and it rests on the Government as the moving party.

LAW

M.R.E. 404(b)

a. M.R.E. 404(b) only allows evidence of uncharged misconduct for limited purposes, and not to prove propensity

The military rules of evidence limit the admission of evidence related to uncharged misconduct at court-martial. Specifically, evidence of uncharged misconduct cannot be used to show propensity: "Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character." M.R.E. 404(b)(1). However, the rules provide some limited exceptions for admissibility including "motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident." M.R.E. 404(b)(2). That evidence must be "offered for a purpose other than to show an accused's predisposition to commit an offense." *United States v. Tanksley*, 54 M.J. 169, 175 (C.A.A.F. Sept. 25, 2000).

b. The *Reynolds* three-part test must be satisfied in order to admit evidence of uncharged offenses

When considering the issue of admissibility of uncharged offenses, the court in *United States v. Reynolds* laid out a three part test that must be satisfied:

(1) Does the evidence reasonably support a finding by the court members that the appellant committed prior crimes, wrongs or acts?

(2) What "fact . . . of consequence" is made more or less probable by the existence of this evidence?

(3) Is the "probative value . . . substantially outweighed by the danger of unfair prejudice"?

Reynolds, 29 M.J. at 109. If the evidence fails on any of these three prongs, it is deemed inadmissible. *Id.*

The first prong of the test requires that "the factfinder could reasonably find by a preponderance of the evidence that the misconduct occurred." *United States v. Hays*, 62 M.J. 158, 164 (C.A.A.F. Sept. 30, 2005). This is further understood to require the judge to determine whether "there is sufficient evidence for a reasonable court member to believe that the accused in fact committed the extrinsic offense." *United States v. Mirandes-Gonzalez*, 26 M.J. 411, 414 (CMA 1988).

The second prong of *Reynolds* derives from the Supreme Court's conclusion that "the threshold inquiry a court must make before admitting similar acts evidence under Rule 404(b) is whether that evidence is probative of a material issue other than character." *United States v. McDonald*, 59 M.J. 426, 429 (C.A.A.F. May 5, 2004) quoting *Huddleston v. United States*, 485 U.S. 681, 686, 99 L. Ed. 2d 771, 108 S. Ct. 1496 (1988). This is a fact based inquiry into the circumstances of the uncharged misconduct and a determination must be made if there is a relevant fact of consequence made more likely by the introduction of this evidence.

The third prong requires that "the evidence is legally, as well as logically, relevant." *United States v. McDonald*, 59 M.J. 426, 429 (C.A.A.F. May 5, 2004). This third prong is based

in the demands of 403: "the evidence must satisfy the balancing required by Mil. R. Evid. 403, i.e., its probative value must not be 'substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the members, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.'" *United States v. Matthews*, 53 M.J. 465, 469 (C.A.A.F. Aug. 31, 2000) quoting *United States v. Reynolds*, at 109 (CMA 1989).

The Mil. R. Evid 403 balancing required in the third prong has been further detailed by CAAF for how courts are to administer the test. In *Berry*, CAAF articulated a 403 balancing test that instructs the judge to consider the following factors: (1) the strength of the proof of the prior act; (2) the probative weight of the evidence; (3) the potential to present less prejudicial evidence; (4) the possible distraction of the fact-finder; (5) the time needed to prove the prior conduct; (6) the temporal proximity of the prior event; the frequency of the acts; the presence of any intervening circumstances; and the relationship between the parties. *United States v. Berry*, 61 M.J. 91, 95 (C.A.A.F. May 10, 2005).

Notably, CAAF specifically noted that a judge's failure to properly administer the balancing test and articulate the reasoning on the record would result in more scrutiny from the appellate courts. *Id* at 96.

c. The Government must provide a valid, specific purpose, not propensity, for admitting evidence of uncharged offenses

The Government is required to declare a purpose for the introduction of the character evidence besides propensity, and to do so with some specificity. The Government must, "state exactly what issue it is trying to prove in order to see whether the evidence is probative, how probative it is, and whether it should be admitted in light of other evidence in the case and the

ever present danger of prejudice. *United States v. Ferguson*, 28 M.J. 104, 108-109 (C.M.A. May 8, 1989).

Therefore, broad inclusion for every possible purpose for admitting character evidence under 404(b) should be avoided in favor of narrowly tailoring and logically explaining what act the Government is trying to admit and for what specific purpose. Courts have consistently disfavored "broad talismanic incantations of words such as intent, plan, or modus operandi, to secure the admission of evidence of other crimes or acts by an accused at a court-martial under Mil.R.Evid. 404(b)." *United States v. Brannan*, 18 M.J. 181, 185 (C.M.A. July 2, 1984).

Additionally, the Government must, "articulate in the notice the permitted purpose for which the prosecutor intends to offer the evidence and the reasoning that supports the purpose" M.R.E. 403(b)(3)(B). Specifically, "the prosecution must not only identify the evidence it intends to offer pursuant to the rule but also articulate a non-propensity purpose for which the evidence is offered and the basis for concluding that the evidence is relevant in light of that purpose" MRE 404(b).

ARGUMENT

A. <u>That Cpl Bopp pointed a weapon at LCpl Dickinson and stated, "I'm sorry" after LCpl Dickinson told him not to do so.</u>

As an initial matter, this evidence is not relevant and should be barred under MRE 401. This event did not happen close in time and occurred in a different room than that of the shooting. LCpl Dickinson asked Cpl Bopp not to do something that made LCpl Dickinson uncomfortable and Cpl Bopp then stated, "I'm sorry." Simply put, Cpl Bopp's statement is a normal human reaction to have when someone expresses discomfort with another's actions.

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Even if deemed relevant, this evidence fails the second prong of the *Reynolds* factor. Stating "I'm sorry" to LCpl Dickinson does not make a fact of consequence for any element the Government must prove more likely. The Government claims this shows, Cpl Bopp "was mentally able to understand that pointing a loaded weapon at another human being was dangerous and inappropriate," but this a large assumption supported by no actual evidence. Additionally, given the charges in this case and the manner in which the Government wants to present this statement and act by Cpl Bopp, the prejudice that will occur to Cpl Bopp and his ability to mount a defense will be far outweighed by any probative value the Government believes this presents. Such evidence—that Cpl Bopp allegedly pointed a weapon at someone other than the victim and then apologized when asked not to-- is merely a distraction to the fact finder with little probative weight for the actual charged offenses. This evidence thus fails the third prong of the *Reynolds* factors and needs to be excluded from the fact finder.

B. <u>That Cpl Bopp had a "Philosophy" about Keeping His Weapon in Condition One</u>

Cpl Bopp's alleged philosophy regarding keeping his weapon in condition 1 fails the *Reynolds* test. As an initial matter, the alleged fact that Cpl Bopp often carried his weapon in condition 1, does not actually make a fact of consequence more or less likely in this case. First, it is an undisputed fact that at some point, the weapon was put into condition 1, Cpl Bopp's "philosophy" does not make this fact more likely. Second, a condition 1 weapon still has the safety on as is taught to all Marines. It is likely that Cpl Bopp's "philosophy" included having the safety on, which is not what occurred on the night of the event.

This evidence also fails the third prong of the *Reynolds* test. There is in fact less prejudicial evidence that the Government can present – again, it is an indisputable fact that at some point the weapon was put into condition 1, as it eventually went off. Although Cpl Bopp

may have had this "philosophy", as shown in the Government's prover notes, it is also known that this weapon was loaded and unloaded throughout the night and handled by other Marines. The Government has provided no clear evidence that it was in fact Cpl Bopp who put the weapon into condition 1 and took the safety off.

Additionally, Marines who are assigned to any form of armed duty, as the armory Marines do, are taught to always keep their weapon in condition 1. The general purpose of carrying a weapon while on duty is to be able to quickly employ it, meaning keeping it in condition 1 is essential. The Government need not use Cpl Bopp's trained "philosophy" against him in order to establish that his weapon was put into condition one at some point in the night. This evidence is only prejudicial to Cpl Bopp and therefore fails the *Reynolds* test and should be excluded.

RELIEF

As the proponent of the evidence the Government has the burden to establish its admissibility. Here, the Government has failed to do so as the probative value of such notified evidence is outweighed by the overwhelming prejudice this will cause Cpl Bopp in light of the charged offenses.

EVIDENCE

In support of its motion the Defense offers the following:

1. Encl A - Government's 404(b) Notice 17 June 2024
2. Encl B - OSTC Prover Notes with LCpl Metcalf
3. Encl C - Government's 304, 404(b), 406 Notice

ORAL ARGUMENT

The Defense requests oral argument should this motion be opposed.

[redacted]

J. L. MCLAUGHLIN
Captain, USMC
Detailed Defense Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of this motion was served electronically on Trial Counsel and the Court on 31 July 2024.

[redacted]

J. L. MCLAUGHLIN
Captain, USMC
Detailed Defense Counsel

AE XLIV
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DEPARTMENT OF THE NAVY
MARINE CORPS OFFICE OF SPECIAL TRIAL COUNSEL – MCB CAMP LEJEUNE
MARINE CORPS BASE CAMP LEJEUNE
PSC BOX 20010
CAMP LEJEUNE, NC 28542-0010

IN REPLY REFER TO:
5811
OSTC/jds
17 June 24

From: Special Trial Counsel
To: Defense Counsel

Subj: SECOND NOTICE OF INTENT TO PRESENT M.R.E. 404(b) EVIDENCE ICO UNITED STATES V. CORPORAL JESSE T. BOPP, USMC

Ref: (a) M.R.E. 404b, Manual for Courts-Martial (2024 ed.)

1. Given the clarity of the evidence elicited from LCpl Aiden Dickinson in response to the Defense Motion for Appropriate Relief (404b) which was argued on 17 June 2024, the Government hereby provides notice of its intent to use the following evidence of other crimes, wrongs, and other acts during its case-in-chief or as rebuttal evidence.

A. Accused's pointing a loaded weapon at LCpl Aiden Dickinson the night of the incident and the accused responding "I'm sorry" or words to that effect. (BS#2059; Testimony on 17June2024). **404b Purpose**: Lack of accident, knowledge, state of mind, and in rebuttal. This evidence will be offered to show that the accused was mentally able to understand that pointing a loaded weapon at another human being was dangerous and inappropriate.

2. The point of contact for this case is Major Jason D. Samuel at jason.d.samuel.mil@usmc.mil. [redacted]

J. D. SAMUEL
Major, U.S. Marine Corps
Special Trial Counsel

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OFFICE OF SPECIAL TRIAL COUNSEL – CAMP LEJEUNE
WITNESS INTERVIEW

IN THE CASE OF (ICO): BOPP

CLERK: CPL REYES

SPECIAL TRIAL COUNSEL: MAJ SAMUEL

OTHER PARTIES PRESENT: _____

WITNESS NAME: LCPL METCALF

WITNESS CONTACT INFORMATION:

2701 PROVIDED: _____

IN PERSON INTERVIEW

2702 PROVIDED: _____

DATE AND TIME OF INTERVIEW: 20240709 -1453

NARRATIVE:

TC explains nature of conversation and what we are looking for throughout the course of the conversation – honesty,

W/ did have a chance to watch his interviews -

W/ believes that everything that he said in the interview is still correct

W/ believes there was nothing that he should've added into the interview questions

TC explains that in Trial they will talk about more in depth things -

W/ agrees that they were all in the room – Bopp and W/ talking about weapons – W/ talked about getting a gun for his mom and as near as W/ could remember that is when S/ left

W/ remembers S/ saying that he had to show W/ or he had something cool to show W/ and then he left

W/ recalls that he was only gone for a few minutes – they were neighbors in the barracks – W/ explains that S/ could have gone to the car

W/ knew it was loaded because S/ slid the mag out, and popped the round out of the chamber

W/ explains that – S/ came in , showed the weapon , ejected the mag, ejected the round

W/ explains that at the end of the conversation S/ was ejecting the round repeatedly

W/ explains the box like thing in S/ hands – W/ doesn't drink – but he believes it was a WINE COOLER

W/ has seen things like it but couldn't tell you the brand – W/ believes they were cheap but high alcohol content – W/ believes that S/ had it when he first came into the room and S/ mentioned that it wasn't his first one

W/ explains that S/ was drinking it while they were talking and S/ held up the one he was drinking and said he had four of those – it wasn't empty and W/ doesn't believe he finished it but it was nearly empty

W/ remembers S/ having a lot of alcohol but being functional – S/ knew where he was, could stand on his own, could follow a conversation – S/ would stumble , S, was red in the face / S/ kept on circling back to stories/ S/ was functional – S/ wouldn't be able to drive however

W/ explains that S/ had a voice when drinking – LISP like – speech is delayed – will slur his words when he drinks enough – S/ was half way between a lisp, there is a difference in his voice and how he talks

W/ explains they are familiar with firearms

W/ can tell the difference of a firearm that is loaded and unloaded on weapons he is familiar with

W/ explains on the WALTHER he is unfamiliar of that weapon and would not be able to tell

W/ explains that knowing S/ he was intoxicated – that warning bell in his head wouldn't have gone off – based on how intoxicated he was – if he was familiar with the weapon

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W/ explains that S/ was intentional with putting weapon in condition 1 – even before S/ was drunk he had great confidence in himself and weapons handling he would always carry it condition 1

W/ has had multiple conversations with S/ that they would always have it in condition 1 – W/ believes that S/ put it in condition 1 because that is how he wanted the weapon to be. S/ had told W/ that S/ philosophically believed that a firearm should always be condition 1

W/ agrees that the chronology is correct and he S/ did leave his room in condition 1

W/ explains that S/ never sent W/ a letter – but Cpl House did receive a letter- and the armory – mailed it to Sgt Grimison's house – that is how S/ mailed it but it was addressed to the armory

W/ reads the letter TC pulls up and agrees that is the letter that S/ wrote to the armory

W/ has read all three – W/ got a call from House and Grim and they all met at Grim's house to read them and talk for a while

TC explains they don't have the letter sent to Cpl House

W/ impression of the letter was that he found them strangely encouraging coming out of this because it appeared Bopp found some sort of redemption because it would be waste of Schwenks life that S/ took because W/ didn't want S/ to drink himself to death after he gets out of jail - W/ explains there was a little bit of self loathing and pity and W/ explains that the letters gave him hope because S/

W/ feels like S/ implied that he shot rather than writing down a confession – it did not strike W/ odd – W/ found it to be appropriate – W

W/ had a conversation with S/ over the phone – S/ called W/ once – not really about much of anything – W/ asked how S/ was doing – their families – they did not talk about the event

W/ is unsure of if S/ has talked to other people about the event

W/ explains that S/ and him did meet in person and W/ asked S/ what he knew – S/ knew everything about the case but they didn't talk about the case

W/ explain that the meeting de-boogey man'd S/ for him – they were just talking about books, diet plans, family, S/ seemed in good health, and apologetic –

W/ explains that it helped him bring S/ back as a person instead of a looming figure

W/ explains that Schwenk was there for about 6-9 months or so

W/ explains that V/ was an interesting character – V/ was 19 at the time – W/ explains that he went to Germany when V/ first got there

W/ explains that V/ was socially awkward and pretty nerdy, V/ was young, never had a job before, fresh out of highschool , W/ explains that he is 26 and remembers what it was like when he was 19

W/ explains that V/ was well liked and W/ explains that V/ was like the little brother of the armory – W/ explains that V/ was somewhat annoying at times but a good kid

W/ explains that V/ was a hard worker, eager and willing to learn, V/ was into anime and video games, V/ was into metal (music),

W/ explains that V/ would stay up all night playing games,

W/ explains that their shop is a close one – W/ explains that the armory is a very casual setting – that environment helped because they were just fairly recently gotten back from deployment – that shortened the pull (got closer) – unless you were in trouble they didn't use rank -

W/ explains that when you work in such close quarters, in such long hours, you need to relax and work together – W/ explains they weren't being unprofessional –

W/ explains there was no Cpls talking down on Lances – even when you made mistakes Grim's leadership style and Bopps leadership style is that they corrected it and moved on

W/ explains that V/ was very socially awkward and he got ribbed for it but he was taken cared of – didn't get corrected any more or less – W/ explains that V/ was going to take over one of W/ billets

W/ explains that in terms of relationship it is very different –

W/ explains that he is willing to humble himself and the relationships he had with other NCOS within the shop

W/explains that they didn't really mix with other units and people

W/ explains that they didn't have a lot of room inspections, and field days

W/ explains that Sgt Rysavy– would check rooms occasionally – and if they could be trusted they would all act like it

W/ explains they didn't have a lot of interactions with shops outside of work

W/ believes that V/ had friends in other shops

W/ explains that they kept to themselves and did their own thing

W/ explains that there was Cpl Bopp, Cpl Grimison, there was other Cpls that V/ had met – like Cpl Evans, Cpl Caraveau, Sgt Daseebo (sp), Cpl House, - just the three at the time of the event – Cpl Bopp , Grim, House

W/ explains that he is kind of familiar with an incident where V/ drank a lot of beer – someone offered V/ a beer and he said no – and then once V/ started drinking he didn't stop – W/ explains that he was encouraged to drink but he was never made to drink and no one forced him too and once V/ realized no one cared he started drinking on his own – W/ doesn't remember any event where V/ would have been made to chug beers -

W/ explains that barbeque might have been for V/ but is unsure – he knows V/ was encouraged to drink but not made to

W/ explains that the only reason they would feel any sort of way against an NCO would have been with Cpl House – if W/ was V/ - they had very different personalities – they never escalated to W/ knowledge

W/ explains that there was a couple of times where W/ had to tell Cpl House that he wasn't being fair and W/ explains that was more geared to House's leadership – W/ believes that Corporals are scary when you hit the fleet

W/ explains that V/ was treated like the rest of them -

TC asks about weapons in the barracks -

W/ explains that Sgt Grim might have had a weapon in the barracks – W/ explains that weapons weren't stored in the barracks – sometimes people would have it in their car – W/ knows that Cpl House was building his weapon and kept some parts in the barracks but never a complete weapon

W/ explains that he believes Bopp would be the only one he can attest to having a weapon in the barracks

W/ explains that they have talked – W/ explains that Bopp had told him that he was on his first drink

TC explains that nothing bad is going to happen to W/ for telling the truth -

TC practices court room

W/ has had a couple speeding tickets

W/ has never been arrested.

W/ has never been NJP

W/ has never gotten in trouble for lying or not telling the truth

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TC explains where people would be during the court hearing

W/ explains that he House and Grim were talking about the case – TC explains that from now on they should refrain from talking about the incident with them – to the extent possible

~~U.S. v. Bopp~~ 002146

Signature: _____

OFFICE OF SPECIAL TRIAL COUNSEL – CAMP LEJEUNE

WITNESS INTERVIEW

TC explains its to protect the right of a fair trial for S/

W/ will have access to his military email account – he will be working in the armory -

TC explains that W/ should not expect to hear from him for a while

W/ asks if the trial will be here on Lejeune , W/ asks if he will sleep in a barracks room or a hotel q

TC answers that he will probably stay in a hotel and that it will be on Lejeune

AE XLV

Page ___ of ____

Signature: _____

DEPARTMENT OF THE NAVY
MARINE CORPS OFFICE OF SPECIAL TRIAL COUNSEL – MCB CAMP LEJEUNE
MARINE CORPS BASE CAMP LEJEUNE
PSC BOX 20010
CAMP LEJEUNE, NC 28542-0010

5811
OSTC/jds
19 Jul 24

From: Special Trial Counsel
To: Civilian Defense Counsel

Subj: MRE 304(f) and MRE 404b, & MRE 406 NOTICE ICO U.S. V. CORPORAL BOPP

Ref: OSTC-E Thirteenth Discovery ltr ICO Corporal Jesse T. Bopp, dtd 12 Jul 24

1. The Office of Special Trial Counsel is providing notice under MRE 304 that it has disclosed to you statements of the accused received by the Government after arraignment. These statements were disclosed to the Defense on 19 July 2024 in the Government's Thirteenth Discovery Letter. The statements are contained in the provers notes and are listed as Bates Stamp #: 002144 - 002147. The statements that Government may seek to admit are the statements of the accused to LCpl Brennan Metcalf that the accused had a philosophical belief that his firearm should always be kept in weapons condition 1.

2. The Government hereby provides notice of its intent to use the following evidence of other crimes, wrongs, and other acts during its case-in-chief or as rebuttal evidence.

A. Accused's belief that 1) a firearm should always be in weapons condition 1, 2) he philosophical believed that his firearm should always be kept in weapons condition 1, and 3) he always carried his personal firearm in weapons condition 1. (BS#2145). **404b Purpose**: Lack of accident, absence of mistake, opportunity, knowledge, state of mind, and in rebuttal. This evidence will be offered to show that the accused had no reasonable belief that his weapon was not loaded when he shot and killed LCpl A.S.

3. The Government hereby provides notice of its intent to use the above evidence as habit evidence in accordance with MRE 406.

4. The Defense is on notice that these statements of the accused may be introduced at trial for the above purposes.

5. The point of contact for this notice is the undersigned at 910-451-9725 or jason.d.samuel.mil@usmc.mil.

[redacted]

J. D. SAMUEL
Major, U.S. Marine Corps
Special Trial Counsel Team Lead

AE XLV
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DEPARTMENT OF THE NAVY
NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES v. JESSE T. BOPP CORPORAL/E-4 U.S. MARINE CORPS	**GOVERNMENT RESPONSE TO DEFENSE SECOND MOTION *IN LIMINE*** **(Exclude 404b)** 7 August 2024

1. Nature of Motion.

The Government requests that the Court deny the Defense motion and find that all the noticed M.R.E. 404b acts are admissible as character and habit evidence, and as statements of the accused.

2. Burden of Proof and Persuasion.

As the moving party, the Defense bears the burden of proof and persuasion[1] for this motion. To admit 404b evidence at trial, the Government is not required to prove the act by a preponderance of the evidence to the trial court.[2] The Government must present the Court sufficient information to decide whether a "jury could reasonably find the conditional fact by a preponderance of the evidence."[3]

[1] R.C.M. 905(c).
[2] "We conclude that a preliminary finding by the court that the Government has proved the act by a preponderance of the evidence is not called for under Rule 104(a). 6 This is not to say, however, that the Government may parade past the jury a litany of potentially prejudicial similar acts that have been established or connected to the defendant only by unsubstantiated innuendo. Evidence is admissible under Rule 404(b) only if it is relevant." Huddleston v. United States, 485 U.S. 681, 689 (1988).
[3] "[T]he trial court neither weighs credibility nor makes a finding that the Government has proved the conditional fact by a preponderance of the evidence. The court simply examines all the evidence in the case and decides whether the jury could reasonably find the conditional fact by a preponderance of the evidence." *United States v. Mirandes-Gonzalez*, 26 M.J. 411, 413-414 (CMA 1988).

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3. **Summary of Facts.**

On 18 October 2023, Corporal Jesse Bopp shot and killed Lance Corporal A.S.[4] He was taken into custody later that day and placed into pre-trial confinement on 19 October 2023. Charges were preferred against him on 29 November 2023.[5] An Article 32 Preliminary Hearing was held 3 January 2024. On 19 January 2024, the Convening Authority referred his charges to this general court-martial. The accused was arraigned on 5 March 2024.

The Government provided notice of additional 404(b) and MRE 304f evidence that was discovered in the process of the Government's response to the Defense's First Motion *In Limine* to exclude 404(b) concerning the witnesses the Defense called at the 39(a), Lance Corporal A.D. and Lance Corporal B.M. The Defense filed a motion opposing this evidence on 31 July 2024. This response follows.

4. **Discussion of Law and Analysis.**

The Law

Evidence of "lack of accident may be admitted regardless of whether a defendant argues lack of intent because every element of a crime must be proven by the prosecution."[6] "Before trial the Government must provide the defense with reasonable notice of the general nature of any M.R.E. 404b evidence that the prosecution intends to offer at trial."[7] Habit evidence is admissible against the accused at trial.[8] The decision to admit evidence under M.R.E. 404b is based on the three-part test enunciated in *United States v. Reynolds*, 29 M.J.

[4] Names of victims and witnesses will be redacted IAW EJCR 7.3.
[5] Charge Sheet
[6] *United States v. Harrow*, 65 M.J. 190, 202 (CAAF 2007).
[7] "Before trial" the Government must provide the defense with "reasonable notice of the general nature of any [M.R.E. 404(b)] evidence that the prosecution intends to offer at trial." *United States v. Wilson*, 2024 CAAF LEXIS 287, *9
[8] M.R.E. 406: "Evidence of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The military judge may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness."

105 (C.M.A. 1989): "Specifically, *Reynolds* asks: (1) does the evidence reasonably support a finding that appellant committed a specific act; (2) does evidence of this act make a fact of consequence more or less probable; and (3) is the probative value of the evidence of this act substantially outweighed by the danger of unfair prejudice?"[9] "[T]he sole test under Mil.R.Evid. 404b is whether the evidence of the misconduct is offered for some purpose other than to demonstrate the accused's predisposition to crime and thereby to suggest that the factfinder infer that he is guilty, as charged, because he is predisposed to commit similar offenses. It is unnecessary, however, that relevant evidence fit snugly into a pigeon hole provided by Mil.R.Evid. 404b."[10] To exclude relevant evidence, the danger of unfair prejudice must substantially outweigh the probative value of the evidence.[11] To determine this, the Court must apply the balancing test articulated in *United States v. Berry*: "[T]he strength of the proof of the prior act; the probative weight of the evidence; the potential to present less prejudicial evidence; the possible distraction of the fact-finder; the time needed to prove the prior conduct; the temporal proximity of the prior event; the frequency of the acts; the presence of any intervening circumstances; and the relationship between the parties."[12]

Prior acts or beliefs of the accused are relevant within the meaning of MRE 401 if the prior act reasonably could be viewed as the expression and effect of the existing internal

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[9] *United States v. Wilson*, 2024 CAAF LEXIS 287, *13-14

[10] *United States v. Castillo*, 29 M.J. 145, 150 (C.M.A. 1989).

[11] "Once the evidence meets these threshold requirements, a military judge must apply the balancing test of M.R.E. 403 under which the testimony may be excluded if its "probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the members." *United States v. Berry*, 61 M.J. 91, 95 (CAAF 2005).

[12] "In conducting the M.R.E. 403 balancing test a military judge should consider the following factors: the strength of the proof of the prior act; the probative weight of the evidence; the potential to present less prejudicial evidence; the possible distraction of the fact-finder; the time needed to prove the prior conduct; the temporal proximity of the prior event; the frequency of the acts; the presence of any intervening circumstances; and the relationship between the parties." *United States v. Berry*, 61 M.J. 91, 95 (CAAF 2005).

emotion that existed in the accused at the time of the charged acts.[13] The trial court "neither weighs credibility nor makes a finding that the Government has proved the conditional fact by a preponderance of the evidence. The court simply examines all the evidence in the case and decides whether the jury could reasonably find the conditional fact by a preponderance of the evidence."[14] Thus, the task for the military judge is to determine whether there is sufficient evidence for a reasonable court member to believe that the accused in fact did the extrinsic act.[15]

Discussion

The evidence provided by Lance Corporals A.D. and B.M is highly probative of the accused's crimes and should be admitted into evidence.

Statement to Lance Corporal A.D.

Corporal Bopp pointed his loaded pistol at Lance Corporal A.D. in the barracks on the night that Corporal Bopp killed Lance Corporal A.S. This evidence is directly relevant to Charge I. Further, it is res gestae of the sequence of events that led to Corporal Bopp killing Lance Corporal A.S. While in the room speaking with Lance Corporal A.D., Corporal Bopp took his loaded pistol (the same one he used to kill LCpl A.S. minutes later) and pointed it in close proximity to Lance Corporal A.D.'s head. Lance Corporal A.D. expressed his displeasure and discomfort with the accused's actions by telling the accused to stop pointing the weapon at him, at which point the accused said "I'm sorry," and pulled the pistol down. The Government also

[13] "Evidence of motive is relevant within the meaning of Mil.R.Evid. 401 to show the doing of an act by a person as an outlet for that emotion. See generally 1A Wigmore, Evidence § 117 (Tillers rev. 1983). However, the prior acts of conduct must be the type which reasonably could be viewed as "the expression and effect of the existing internal emotion." Id. at 1696. Moreover, this same motive must be shown to have existed in appellant at the time of the subsequently charged acts." *United States v. Watkins*, 21 M.J. 224, 227 (CMA 1986)

[14] *United States v. Mirandes-Gonzalez*, 26 M.J. 411, 413-414 (CMA 1988).

[15] *United States v. Mirandes-Gonzalez*, 26 M.J. 411, 414 (CMA 1988).

provided notice of this to show lack of accident, knowledge, and state of mind in relation to Charges II and III. The accused's actions demonstrate that he was able to appreciate the wrongfulness of his conduct, and the government will argue that based on the accused's reaction to LCpl A.D., he knew that pointing a loaded weapon was not a "joke," and he was implicitly reminded that it was dangerous to point a loaded weapon at another human being. Should the Defense suggest, argue, or imply that the accused 1) did not know what he was doing because of his intoxication, 2) was just trying to make a "joke" by pointing the same loaded weapon at LCpl A.S.'s head, or 3) did not realize that the weapon was loaded when he shot and killed LCpl A.S., this incident, which is direct evidence to Charge I, and circumstantial evidence to Charge II, would be highly probative for the finder of fact.

Philosophy of Maintaining Personal Weapon with a Round in the Chamber

The accused believed that he should always keep a round in the chamber of his personal firearm. The evidence of his belief is directly relevant to Charge II. Because he always kept a round in the chamber, and because his firearm does not contain a safety, the accused knew that discharging the firearm would result in a live round being fired from his weapon. The accused's belief in always having a round in the chamber is highly probative evidence. This is separate from the fact that the accused may have been required to stand armory duty with a service weapon with a round in the chamber and with the safety on. The accused's training and experience with firearms are also relevant to the charge. But his personal habit with *his* personal weapon is the crux of the issue here, and his habit of keeping a round in the chamber of his weapon is directly relevant to his wanton disregard for human life by discharging that weapon into LCpl A.S. The accused made known to LCpl B.M. that his personal belief and philosophy is to always have the weapon with a round in the chamber. While LCpl B.M. colloquially describes

that as being a Condition 1 weapon, vice a Condition 0[16] weapon, the critical piece of evidence for the members is that the accused believed in keeping his personal weapon loaded, with a round in the chamber *at all times*. Should the Defense attempt to suggest that the accused did not know that his weapon was loaded, and that he reasonably believed that his weapon was unloaded, this evidence would directly rebut the Defense's argument.[17] The Defense suggestion that the Government has not produced any evidence of the accused loading the weapon himself ignores the previous sworn testimony provided by LCpl A.D. and LCpl B.M. at the last session of this Court, and that the accused's weapon does not have a safety, therefore the weapon is always ready to fire. Accordingly, this evidence meets the *Reynolds* factors, and should be admitted.

5. **Relief Requested.**

The Government respectfully requests that this Court admit both pieces of evidence in this case.

6. **Evidence.**

a. Enclosure 1: Photograph of Accused's Pistol

7. **Oral Argument.** The Government requests an opportunity to respond to any argument made by Defense Counsel.

[redacted]

Jason D. Samuel
Major, USMC
Special Trial Counsel

[16] Magazine inserted, round in the chamber, safety off.
[17] See *United States v. Thomas*, 40 M.J. 252, 252 (CAAF 1994) (Accused's beliefs were relevant evidence in rebuttal).

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Government Response to the Defense Second Motion *In Limine* was served electronically on defense counsel on 7 August 2024.

[redacted]

Jason D. Samuel
Major, USMC
Special Trial Counsel

AE XLVI
Pg 7 of 7

ENCLOSURE 1

Photograph of Accused's Pistol

AE XLVII

Pg 1 of 2

...IVAL CRIMINAL INVESTIGATIVE SERVICE
PHOTOGRAPH FORM



1. OFFICE CODE:		
NCISRA CAMP LEJEUNE, NC		
2. TITLE:	**3. CCN:**	**4. AGENT'S NAME:**
S/BOPP, JESSE THOMAS/CPL USMC	18OCT23-CALE-00856-7HMA	SA Megan ROBBINS
5. SUMMARY/DESCRIPTION:		**6. PHOTOGRAPHER/ DATE PHOTO TAKEN:**
Close-up photograph depicting Walther PDP pistol bearing S/N: FDG1442 (Item F), subsequent to clearing.		SA Jasmine WEEMS/18OCT23

NCIS 5580/91 (Rev 06-2010) PREVIOUS EDITIONS ARE OBSOLETE

Photograph (26) of (52)

Enclosure (B)

AE XLVII

Pg 2 of 2

NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES v. JESSE T. BOPP CORPORAL U.S. MARINE CORPS	VLC REQUEST FOR MODIFICATION OF EJC RULE 15 28 August 2024

1. **Nature of Motion**.

Victims' Legal Counsel requests the Military Judge exercise his discretion under Eastern Judicial Circuit (EJC) Rule 15.6(d) to allow for the Article 6b designated representatives of the deceased victim to observe court proceedings via video or telephonic means. The VLC for Ms. Christison joins this motion in full.

2. **Summary of Facts**.

VLC offers the following facts:

a. Mr. Robert Schwenk, Jr. and Ms. Kassandra Christison are the parents of Lance Corporal A. S. is the deceased victim named in the charge.

b. Both parents have been designated as the Article 6b Representatives by this Court and are represented by Victims Legal Counsel (VLC).

c. Both parents reside outside of the local Camp Lejeune area and have previously traveled to court filings. Both parents reside in Ohio. Their previous travel has been funded at the expense of the Government.

d. At all previous hearings involved in this court-martial, to the knowledge of the VLC, there have been no disruptions caused by either parent to the court.

e. Both parents share custody of their minor daughter involving alternating specific days and weekends.

3. **Law & Analysis**

The Rule Allows for Judicial Discretion

EJC Rule 15 concerns spectators. Specifically, EJC Rule 15.6 concerns victims and their ability to observe court proceedings. EJC Rule 15.6 reads:

> (Alleged) victims may attend court proceedings remotely – via telephone or other remote means – if the military judge confirms that the following conditions have been met:
>
> (a) The (alleged) victim is participating onboard a military installation;
>
> (b) The (alleged) victim is joined in the same physical location by:
>
> 1. The (alleged) victim's actual VLC;
> 2. A substitute VLC who has agreed to attend the with the (alleged) victim; or
> 3. A substitute government representative – approved by the military judge – who has agreed to attend the proceedings with the (alleged) victim;
>
> and;
>
> (c) The VLC/government representative joining the (alleged) victim establishes to the military judge's satisfaction that the (alleged) victim is attending in compliance with the remaining rules set forth herein.
>
> (d) The military judge has the discretion to modify any of the requirements set forth in this rule on a case-by-case basis if the (alleged) victim establishes good cause to do so.

Eastern Judicial Circuit Rules 15.6.

Specifically, in section (d), the military judge is granted discretion to modify this rule on a case-by-case basis. *See* Id. Further, U.C.M.J. Article 6b provides a Congressional directive for Victims and their designees to be able to attend and observe court proceedings involving them.

The Judicial Policy Purpose of the Rule is not Harmed by Modification

Since the rule clearly allows for judicial discretion and modification, the primary focus on any modification should be alleviating any concerns the Court may have in regard to the primary purpose of the rule as outline in EJC Rule 15.1. This judicial policy purpose is to ensure that "dignity and decorum" is maintained during judicial proceeds. *See* Eastern Judicial Circuit Rule 15.1. Allowing Video Teleconferencing (VTC) or traditional telephonic observation of a court proceeding for victims does not impact the dignity or decorum of any procedure.

The rules presently allow VLCs to observe telephonically under EJC Rule 15.5. It is common knowledge that VTC is often used by civilian courts in both criminal and civil proceedings. Therefore, telephonic participation is not inherently detrimental to the dignity or decorum of the proceedings. By extending this courtesy to two adult parents, the modification does not pose risk to the dignity or decorum of the proceedings.

The Proposed Modification and its Safeguards

VLC is proposing the court allow the Article 6b designees to observe the court proceeding via VTC or listen in telephonically as a VLC has done previously. This would be accomplished by VTC or in the alternative, telephonically. Trial Counsel has previously set up a VTC channel, and in other previous sessions, the VLC has called the courtroom's phone and listened in with the telephone on mute.

The proposed safeguards as follows:

1) VTC Hosts generally can mute the microphones of participants. Trial Counsel or his clerk could mute the microphones of any victim observing via VTC.
2) VLC accepts responsibility to inform their clients that they cannot participate,

they cannot record or disseminate any visuals of the court proceedings, that they must also mute their microphones on their end, and turn their cameras off and only watch and/or listen in.

3) The Human Factor. Both parents are adults, who have raised children, and live professional lives. Mr. Schwenk is a former USMC 4421 and also possesses a Juris Doctorate. He is aware of the respect and dignity a courtroom requires. Further, he has not caused any disturbance in any in-person appearance he has made. Further, Ms. Christison's VLCs include civilian practitioners who are familiar with judicial or civil proceedings utilizing VTCs, and the decorum required there.

These safeguards satisfy the clear concerns the rule had which led to subsections (a), (b), and (c) in EJC Rule 15.6.

Judicial Modification is Appropriate for this Case and Good Cause is Demonstrated

As contemplated in EJC Rule 15.6, the Military Judge may modify on a case-by-case basis when "good cause" is established. In this specific case, the custody between the parents of a minor daughter provides good cause. With Mr. Schwenk, who resides in Ohio, having custody of his minor daughter on Wednesday after-school to Thursday morning getting her to school, in addition to alternating weekends, *no schedule can satisfy both parents* with their responsibility to their daughter. The inevitable conflict, based on ensuring the well-being of their minor daughter, is good cause on its face. Further, both parents seek to observe court proceedings about the criminal trial involving the killing of their son. Balancing their interest in observing this case while ensuring the caretaking of their daughter is clearly good cause for a judicial modification.

As to the concerns of the Judicial Public Policy of courtroom decorum, the age and experience of the Article 6b designees and their VLCs weighs in favor of the alleviating the judicial concerns.

With abovementioned safeguards in place, this Court should feel confident *for this specific case* that judicial decorum will be maintained while enacting the modification to EJC Rule 15.6 that the good cause shown demands.

4. **Relief Requested** VLC respectfully requests this Court allow for a modification to EJC Rule 15.6 to allow for the Article 6b designees.

5. **Burden of Proof**. VLC bears the burden to demonstrate Good Cause in accordance with EJC Rule 15.6.

6. **Oral Argument**. Unless the Court has further questions or this motion is opposed, VLC does not request oral arguments.

[redacted]

S. J. CAVALLARO
Captain, USMC
Victim Legal Counsel

****

I certify that I caused a copy of this document to be served on the court and opposing counsel this 28th day of August 2024.

[redacted]

S. J. CAVALLARO
Captain, USMC
Victim Legal Counsel

AE XLVIII
Pg 5 of 5

Samuel Maj Jason D

From: Workman Col Adam J
Sent: Thursday, August 1, 2024 2:22 PM
To: E Kopka
Cc: ejc.clerkofcourt; Samuel Maj Jason D; Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Fryman Capt Abby L; Chasity Fair; Guilds, Ryan; Cavallaro Capt Stefano J
Subject: RE: [Non-DoD Source] Bopp
Signed By: adam.j.workman1@usmc.mil

Good afternoon Counsel,

I am granting in part the Defense's Motion to amend the trial milestones. I have taken into account *US v. Wilson*, 28 MJ 1054 (1989)(N.M.C.M.R. 1989). Additionally, in determining whether a continuance is appropriate under the circumstances of a particular case, the factors articulated in *United States v. Miller* are useful. Those factors are "surprise, nature of any evidence involved, timeliness of the request, substitute testimony or evidence, availability of witness or evidence requested, length of continuance, prejudice to opponent, moving party received prior continuances, good faith of moving party, use of reasonable diligence by moving party, possible impact on verdict, and prior notice." The Court finds that Mr. Kopka's appearance justifies more time for defense preparation. The amount of time requested is reasonable, especially give that much of the time transpires over the holiday season.

Note the tight timelines coming up within the next week. Also, the Court is not available for the 15 October 39(a) so has docketed that for 29 October 24.

Defense Expert Consultant Request	1 Aug 24
Government Response to Expert Consultant Request	5 Aug 24
Motion to Compel Expert Consultant	6 Aug 24
Government Response to Motion to Compel Expert Consultant	8 Aug 24
Expert Consultant Status 39(a)	9 Aug24
Article 39a, If Necessary	3-5 Sept 24
Defense Request for Expert Witness	16 Sept 24
Government Notices Pursuant to M.R.E. 404(b), 412, 413(b), 414(b)	16 Sept 24
Government Response to Expert Witness Request	20 Sept 24
Defense Motion to Compel Expert Witness	27 Sept 24
Other Motions Filed	27 Sept 24
Government Response to Motion to Compel Expert Witness	4 Oct 24
Responses to Other Motions Filed	4 Oct 24
Written Notice of Certain Defenses	8 Nov 24
Written Notice of Pleas and Forum	8 Nov24
Article 39a Experts/Other Motions	29 Oct 24
Declaration of Expert Witness and Reciprocal Discovery	22 Oct 24
Defense Request for Witnesses	22 Oct 24
Government response to Defense Request for Witnesses	28 Oct 24

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Motions Filed	15 Oct 24
Motions Responses	4 Nov24
Article 39a Reciprocal Discovery/Daubert	7 Nov 24
Final Pretrial Matters	13 Dec 24
Article 39a Pretrial Status Conference	17 Dec 24
Trial Dates at Camp Lejeune, NC	22 Jan- 7 Feb 25

V/r

Col W

From: E Kopka [redacted]
Sent: Friday, July 19, 2024 2:44 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; E Kopka [redacted]
Subject: Re: [Non-DoD Source] Bopp

Sir,
Good afternoon, as forecasted based on my recent involvement with this matter, I have attached a request to amend milestones/continuance for the Court's consideration. I have coordinated with all counsel and their respective clients to ensure that all parties are able to support these dates. Please let me know if you have any questions, thank you.
V/R
Eric

On Fri, Jul 19, 2024 at 9:54 AM Workman Col Adam J <adam.j.workman1@usmc.mil> wrote:

Copy all Mr. Kopka. Please keep in mind that we are still several months from the currently ordered milestones and your co-counsel are familiar with all of the discovery.

As of now all previously ordered milestones are still in effect, which is why I didn't address Maj Samuel's recent motion.

V/r

Col W

AE XLIX
Pg 2 of 46

From: E Kopka <[redacted]
Sent: Thursday, July 18, 2024 10:13 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; E Kopka <ericmkopka@gmail.com>
Subject: [Non-DoD Source] Bopp

Sir,

Good morning, I wanted to provide an update to the Court on the status of this case. I was able to pick up the final 14 discs of discovery yesterday from the DSO. All counsel have been assisting in providing me with the discovery in this case. I have also provided a draft Motion to Amend/Continuance to all counsel for review and input on the revised dates and milestones. I am pending confirmation from one counsel on the proposed dates prior to submission to the court for consideration. Counsel advised that he should have an answer to me by the end of the week. Once the dates are confirmed I will provide the Motion to Amend to Court for consideration. Thank you.

V/R
Eric

--

Eric M. Kopka

Attorney at Military Law

825 Gum Branch Road, Suite 117

Jacksonville, NC 28540

Telephone: (910) 455-6300

Facsimile: (910) 455-3012

Website: www.militaryuslawyers.com

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AE XLIX
Pg 3 of 46

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Eric M. Kopka
Attorney at Military Law
825 Gum Branch Road, Suite 117
Jacksonville, NC 28540
Telephone: (910) 455-6300
Facsimile: (910) 455-3012
Website: www.militaryuslawyers.com

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AE XLIX
Pg 4 of 40

Gmail E Kopka <ericmkopka@gmail.com>

Re: [Non-DoD Source] Bopp

1 message

Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil> Thu, Jul 18, 2024 at 10:55 AM
To: ericmkopka [redacted]
Cc: Fryman Capt Abby L <abby.fryman@usmc.mil>, Chasity Fair <Chasity.Fair@arnoldporter.com>, "Guilds, Ryan" <Ryan.Guilds@arnoldporter.com>, Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>, Rehak Maj Joshua A <joshua.rehak@usmc.mil>

Second attempt:

Good Morming All-

Apologies for the last email, that's odd.

My client would like the dates changed for the 39As as they are on Wednesdays, which is the days he gets his daughter and cannot attend.

The trial dates are fine.

V/r

Stefano J. Cavallaro

Captain, U.S. Marine Corps

Victims' Legal Counsel

Camp Pendleton, CA

Gov Cell: 760-470-3397

From: E Kopka <[redacted]
Sent: Thursday, July 18, 2024 8:42 AM
To: Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>
Cc: Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Subject: Re: [Non-DoD Source] Bopp

Good morning,

Could you resend this email? There is nothing in the body of it. Thank you.

Frederique Bedson
Paralegal

On Wed, Jul 17, 2024 at 5:50 PM Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil< mailto:stefano.cavallaro@usmc.mil>> wrote:

--
Eric M. Kopka
Attorney at Military Law
825 Gum Branch Road, Suite 117
Jacksonville, NC 28540
Telephone: (910) 455-6300

Enclosure (2)
AE XLIX
Pg 5 of 46

Facsimile: (910) 455-3012
Website: www.militaryuslawyers.com<http://www.militaryuslawyers.com/>

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UNITED STATES MARINE CORPS
VICTIMS' LEGAL COUNSEL ORGANIZATION
LEGAL SERVICES SUPPORT SECTION EAST
MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE
CAMP LEJEUNE NC 28542-0005

5800
VLC/c k
18 Jul 4

From: Captain Abby L. Fryman, USMC, Victims' Legal Counsel
To: Trial Counsel
Defense Counsel

Subj: VICTIM PREFERENCE LETTER REGARDING CONTINUANCE IN CASE OF US V. BOPP

Ref: (a) 10 USC § 1044e
(b) Article 6b, UCMJ

1. I, Captain Abby Fryman, have been detailed, in accordance with reference (a), as the Victims' Legal Counsel for Ms. Kassandra Christison in the subject case. Ms. Christison is the mother of the named victim, Lance corporal (LCpl) A.S., and is one of the Article 6b designees.

2. Ms. Christison supports the Defense motion for continuing trial dates to 22 January – 7 February 2025. She prefers those proposed new dates to the current dates of 4-18 November 2024.

3. I am available to discuss this matter at your convenience at (910) 915-9782 or abby.l.fryman@usmc.mil.

[redacted]

A. F. FRYMAN

Enclosure (1)
AE XLIX
Pg 7 of 46

Samuel Maj Jason D

From: Workman Col Adam J
Sent: Wednesday, September 4, 2024 11:26 AM
To: Fryman Capt Abby L
Cc: ejc.clerkofcourt; Cavallaro Capt Stefano J; Rehak Maj Joshua A; Mclaughlin Capt Jessica ; Chasity Fair; Guilds, Ryan; Samuel Maj Jason D; OSTC East; ericmkopka
Subject: RE: US v BOPP Breastfeeding Accommodation
Signed By: adam.j.workman1@usmc.mil

Capt Fryman, since you are local I prefer you are in person. Thank you.

s/f

Col W

From: Fryman Capt Abby L <abby.fryman@usmc.mil>
Sent: Wednesday, September 4, 2024 10:26 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: Re: US v BOPP Breastfeeding Accommodation

Good morning Your Honor,

Received. A point of clarification, do you want myself on the Teams link or in person? Since I am local I can do whatever you prefer for this accommodation. Thank you.

V/r
Capt Fryman

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Wednesday, September 4, 2024 8:51 AM
To: Fryman Capt Abby L <abby.fryman@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: RE: US v BOPP Breastfeeding Accommodation

Good morning Counsel,

The motion is GRANTED for this specific instance. The Court defers the technological coordination for VTC/phone to the Government.

S/f

AE XLIX
Pg 8 of 46

Col W

From: Fryman Capt Abby L <abby.fryman@usmc.mil>
Sent: Wednesday, September 4, 2024 8:33 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka [redacted]
Subject: RE: US v BOPP Breastfeeding Accommodation

Good morning Your Honor,

Just wanted to follow-up on this motion since we are having the 39(a) tomorrow and had not heard any word regarding.

V/r

Abby L. Fryman
Captain, U.S. Marine Corps
Victims' Legal Counsel
MCB Camp Lejeune, NC

From: Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>
Sent: Wednesday, August 28, 2024 5:43 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka [redacted]
Subject: RE: US v BOPP Breastfeeding Accommodation

Good Afternoon Sir,

Please see the attached motion requesting a judicial modification to EJC Rule 15. I was planning on filing this previous to your request, and Capt Fryman joins in full. Capt Fryman will ensure it is added to the Teams folder as I do not have access.

Sir, I am also providing notification and respectfully requesting the Court to allow myself to observe the proceeding next week on the 4th or 5th via telephonic or VTC as I am stationed at Camp Pendleton. My client will not be attending due to those being the days he has custody of their minor daughter. I can provide a formal written filing if the Court prefers.

I am available for any further questions or concerns from the Court.

Very Respectfully,

Stefano J. Cavallaro
Captain, U.S. Marine Corps
Victims' Legal Counsel
Camp Pendleton, CA

Gov Cell: 760-470-3397

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Wednesday, August 28, 2024 12:19 PM
To: Fryman Capt Abby L <abby.fryman@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: RE: US v BOPP Breastfeeding Accommodation

Capt Fryman,

Please provide a formal written filing outlining what measures will be taken to ensure compliance with the EJC Rules of Practice. Thanks.

S/f

Col W

From: Fryman Capt Abby L <abby.fryman@usmc.mil>
Sent: Monday, August 26, 2024 3:33 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka [redacted]
Subject: Re: US v BOPP Breastfeeding Accommodation

Good afternoon Your Honor,

Good Afternoon Your Honor,

Received Sir. I can also join in via VTC in an effort to accommodate my client. My client and her civilian VLC would be joining me in observing the 39a on the same audio/visual line as myself. I will ensure that my client's line is on mute and that she is only listening in.

My client, when presented with the new TMO date request from defense mixed up their dates due to confusion and originally thought they were available for the coming 39(a) session when asked multiple times. They have informed me they are actually traveling from Ohio to Canada on the 4th. Since these dates were originally "if necessary" they were not concerned. Now that these dates are confirmed as necessary, they would like the opportunity to listen in rather than petition the court to move the hearing dates.

I would respectfully request you permission to allow this so they can attend as they have been in attendance for all other sessions and plan to continue doing so.

I can provide a formal written filing if the court prefers.

Very Respectfully,
Capt Fryman

AE XLIX
Pg 10 of 46

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Monday, August 26, 2024 3:21 PM
To: Fryman Capt Abby L <abby.fryman@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: RE: US v BOPP Breastfeeding Accommodation

Capt Fryman,

Unless co-counsel and your client are going to be co-located with a uniformed officer of the Court the request to appear virtually is denied.

Your request for special accommodation is granted, although I cannot commit the particulars yet.

S/f

Col W

From: Fryman Capt Abby L <abby.fryman@usmc.mil>
Sent: Monday, August 26, 2024 2:34 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: Re: US v BOPP Breastfeeding Accommodation

Good afternoon Your Honor,

I have two requests I am respectfully asking from the court:

First, I am respectfully that my client, Ms. Christison and her civilian VLC (Chasity Fair) appear virtually for the next 39a on 3-5 September. My client is located in Ohio and Ms. Fair is located in DC. Both are unable to travel to Camp Lejeune but would like to participate virtually. I will be in attendance in person.

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Pg 11 of 46

I can provide a more formal court filing if the Court requests so for either of these requests.

V/r
Capt Fryman

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Thursday, August 8, 2024 11:48 AM
To: Fryman Capt Abby L <abby.fryman@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; [redacted]
Subject: RE: US v BOPP Breastfeeding Accommodation

ALCON,

Due to the uncertainties created by the weather situation we will not have a 39(a) session tomorrow. We will take up the motions currently before the court at the next scheduled 39(a).

Capt Fryman: please resubmit your request prior to the next session of court.

I appreciate everyone's flexibility.

V/r

Col W

From: Fryman Capt Abby L <abby.fryman@usmc.mil>
Sent: Thursday, August 8, 2024 10:41 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; [redacted]
Subject: US v BOPP Breastfeeding Accommodation

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AE XLIX
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Standing by for the Court's decision and/or input on COAs. This is only a request for the 39(a) tomorrow and the 39(a) from 3-5 September, after that it will no longer be needed.

V/r

Abby L. Fryman
Captain, U.S. Marine Corps
Victims' Legal Counsel
MCB Camp Lejeune, NC

Get Outlook for iOS

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Pg 13 of 46

Samuel Maj Jason D

From: Workman Col Adam J
Sent: Friday, July 19, 2024 8:02 PM
To: Samuel Maj Jason D
Cc: OSTC East; ejc.clerkofcourt; ericmkopka; Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Fryman Capt Abby L; Cavallaro Capt Stefano J; Chasity Fair; Guilds, Ryan; Robbins, Megan
Subject: RE: Subpoena Request ICO U.S. v. Bopp
Signed By: adam.j.workman1@usmc.mil

Copy all.

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Friday, July 19, 2024 5:37 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: OSTC East <OSTCEAST@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; ericmkopka <[redacted] Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Robbins, Megan <megan.robbins@ncis.navy.mil>
Subject: RE: Subpoena Request ICO U.S. v. Bopp

Good evening Your Honor:

Please find attached the Warrant Return from Discord.

The subpoena was served on Discord on 08Jul24 and return came back on 10Jul24. The Certificate of Service is not completely filled out, because it was submitted online through their portal so NCIS did not have a name for the person it was served on.

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Monday, July 8, 2024 1:35 PM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: OSTC East <OSTCEAST@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; ericmkopka <[redacted] Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Robbins, Megan <megan.robbins@ncis.navy.mil>
Subject: RE: Subpoena Request ICO U.S. v. Bopp

Please find attached.

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Pg 14 of 46

I should have your 404b ruling later this week.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Monday, July 8, 2024 11:06 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: OSTC East <OSTCEAST@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; ericmkopka <[redacted]>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Robbins, Megan <megan.robbins@ncis.navy.mil>
Subject: RE: Subpoena Request ICO U.S. v. Bopp

Good morning Your Honor:

Please find attached.

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Monday, July 8, 2024 10:36 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: OSTC East <OSTCEAST@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Robbins, Megan <megan.robbins@ncis.navy.mil>
Subject: RE: Subpoena Request ICO U.S. v. Bopp

Maj Samuel,

Please send me a fillable copy. Thanks.

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Monday, July 8, 2024 8:18 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: OSTC East <OSTCEAST@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Robbins, Megan <megan.robbins@ncis.navy.mil>
Subject: RE: Subpoena Request ICO U.S. v. Bopp

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Pg 15 of 46

Good morning Your Honor:

I am following up on this subpoena request. Thank you.

Very Respectfully,

ason D. Samuel
Major, U.S. Marine Corps
pecial Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

From: Samuel Maj Jason D
Sent: Tuesday, June 25, 2024 4:24 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: OSTC East <OSTCEAST@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Kim Capt Christophe C <christopher.c.kim@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Robbins, Megan <megan.robbins@ncis.navy.mil>
Subject: Subpoena Request ICO U.S. v. Bopp

Good afternoon Your Honor:

Please find attached a subpoena request for Discord.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

AE XLIX
Pg 16 of 46

Samuel Maj Jason D

From: Workman Col Adam J
Sent: Friday, August 30, 2024 7:50 AM
To: Samuel Maj Jason D
Cc: ejc.clerkofcourt; Cavallaro Capt Stefano J; Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Chasity Fair; Guilds, Ryan; OSTC East; ericmkopka; Fryman Capt Abby L
Subject: RE: U.S. v. Bopp 39a Date Question
Signed By: adam.j.workman1@usmc.mil

Good morning Counsel,

We will plan on the 5th at 0900. Thanks and have a nice weekend.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Thursday, August 29, 2024 5:53 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted] Fryman Capt Abby L <abby.fryman@usmc.mil>
Subject: RE: U.S. v. Bopp 39a Date Question

Good evening Your Honor:

The Government is requesting to hold the Article 39a on 5 September, to better accommodate one of the victims.

All parties were queried as to a date preference but none have voiced any concerns with either the 4th or 5th except for one victim.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Wednesday, August 28, 2024 7:42 AM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; OSTC East <OSTCEAST@usmc.mil>;

AE XLIX
Pg 17 of 46

ericmkopka <[redacted]>; Fryman Capt Abby L <abby.fryman@usmc.mil>
Subject: RE: U.S. v. Bopp 39a Date Question

Good morning Counsel,

We will plan on not holding Court on 3 September. We will narrow down either the 4th or 5th, or both, as the date approaches and we assess what we may need. Thank you.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Tuesday, August 27, 2024 4:35 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]>; Fryman Capt Abby L <abby.fryman@usmc.mil>
Subject: U.S. v. Bopp 39a Date Question

Good afternoon Your Honor:

A PTIR will be submitted for the upcoming hearing to the Clerk of Court this afternoon. The PTIR reflects the 3-5 September dates from the TMO.

However, 3 September is part of the MCI-East Labor Day 96 liberty period. Is the Court amenable to not holding the 39a on 3 September?

Defense Counsel and Trial Counsel are available on 4 or 5 September for the 39a. Capt Cavallaro's client may have a conflict with those dates, but I will let him chime in with his client's preferred date.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Monday, August 26, 2024 3:21 PM
To: Fryman Capt Abby L <abby.fryman@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]>
Subject: RE: US v BOPP Breastfeeding Accommodation

Capt Fryman,

AE XLIX
Pg 18 of 46

Unless co-counsel and your client are going to be co-located with a uniformed officer of the Court the request to appear virtually is denied.

Your request for special accommodation is granted, although I cannot commit the particulars yet.

S/f

Col W

From: Fryman Capt Abby L <abby.fryman@usmc.mil>
Sent: Monday, August 26, 2024 2:34 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: Re: US v BOPP Breastfeeding Accommodation

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Capt Fryman

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Thursday, August 8, 2024 11:48 AM
To: Fryman Capt Abby L <abby.fryman@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; [redacted] <[redacted]>
Subject: RE: US v BOPP Breastfeeding Accommodation

ALCON,

Due to the uncertainties created by the weather situation we will not have a 39(a) session tomorrow. We will take up the motions currently before the court at the next scheduled 39(a).

Capt Fryman: please resubmit your request prior to the next session of court.

I appreciate everyone's flexibility.

V/r

Col W

From: Fryman Capt Abby L <abby.fryman@usmc.mil>
Sent: Thursday, August 8, 2024 10:41 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka@gmail.com
Subject: US v BOPP Breastfeeding Accommodation

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V/r

AE XLIX
Pg 20 of 46

Abby L. Fryman
Captain, U.S. Marine Corps
Victims' Legal Counsel
MCB Camp Lejeune, NC

Samuel Maj Jason D

From: Workman Col Adam J
Sent: Tuesday, August 6, 2024 3:51 PM
To: Samuel Maj Jason D; Cavallaro Capt Stefano J; ericmkopka
Cc: ejc.clerkofcourt; Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Fryman Capt Abby L; Chasity Fair; Guilds, Ryan; OSTC East
Subject: RE: [Non-DoD Source] Bopp
Signed By: adam.j.workman1@usmc.mil

Thanks Maj Samuel. That may be the best COA. Will consider Defense input as well.

S/f

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Tuesday, August 6, 2024 3:49 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; ericmkopka <[redacted]
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; OSTC East <OSTCEAST@usmc.mil>
Subject: RE: [Non-DoD Source] Bopp

Understood Your Honor.

The Government proposes that if Your Honor is unable to return for the 9th, that we take these motions up during the 3-5 September 39a period on the TMO.

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Tuesday, August 6, 2024 3:42 PM
To: Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; ericmkopka <[redacted]
Cc: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; OSTC East <OSTCEAST@usmc.mil>
Subject: RE: [Non-DoD Source] Bopp

Capt Cavallaro, under the circumstances, and under the conditions you propose, I will allow it.

ALCON: I am currently TAD and have a flight to return to CLNC by Friday. However, I am concerned about the weather and its impact on my arrival. BPT to postpone the 39(a) on Friday. More to follow as the forecast develops.

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Pg 22 of 46

S/f

Col W

From: Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>
Sent: Tuesday, August 6, 2024 3:2[redacted] PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; ericmkopka <[redacted]>
Cc: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; OSTC East <OSTCEAST@usmc.mil>
Subject: Re: [Non-DoD Source] Bopp

Good Afternoon Your Honor,

My client will be joining me in observing the 39a on the same audio/visual line as myself. I was informed that this may be an issue with the Court, and I would respectfully request you permission to allow this. My client has custody of his daughter on the date of the hearing, which is partially cause of the concerns with attending in person. I will ensure that my client's line is on mute and that he is only listening in.

I can provide a formal written filing if the court prefers.

Very Respectfully,

Stefano J. Cavallaro
Captain, U.S. Marine Corps
Victims' Legal Counsel
Camp Pendleton, CA
Gov Cell: 760-470-3397

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Friday, August 2, 2024 10:49 AM
To: Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; ericmkopk[redacted]
Cc: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; OSTC East <OSTCEAST@usmc.mil>
Subject: RE: [Non-DoD Source] Bopp

Capt Cavallaro, your request is granted. I will defer to the TC to ensure you have connectivity.

S/f

Col W

From: Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>
Sent: Friday, August 2, 2024 1:30 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; ericmkopka <[redacted]>
Cc: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L

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<abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; OSTC East <OSTCEAST@usmc.mil>
Subject: Re: [Non-DoD Source] Bopp

Good Morning Your Honor,

I am respectfully requesting to appear telephonically again for the next 39a on 9 August. Same as last time, I am located at CPen and my client has authorized my participation telephonically.

I can provide a more form court filing if the Court requests so.

Very Respectfully,

Stefano J. Cavallaro
Captain, U.S. Marine Corps
Victims' Legal Counsel
Camp Pendleton, CA
Gov Cell: 760-470-3397

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Pg 24 of 46

V/R
Eric

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Maj Samuel

(O): 910-451-9725

(C): [redacted]

(E): jason.d.samuel.mil@usmc.mil

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Pg 25 of 46

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Good afternoon Your Honor:

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AE XLIX
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Maj Samuel

(O): 910-451-9725

(C): [redacted]

(E): jason.d.samuel.mil@usmc.mil

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Note the tight timelines coming up within the next week. Also, the Court is not available for the 15 October 39(a) so has docketed that for 29 October 24.

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V/r

Col W

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Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; E Kopka <[redacted]
Subject: Re: [Non-DoD Source] Bopp

Sir,

Good afternoon, as forecasted based on my recent involvement with this matter, I have attached a request to amend milestones/continuance for the Court's consideration. I have coordinated with all counsel and their respective clients to ensure that all parties are able to support these dates. Please let me know if you have any questions, thank you.
V/R

Eric

On Fri, Jul 19, 2024 at 9:54 AM Workman Col Adam J <adam.j.workman1@usmc.mil> wrote:

> Copy all Mr. Kopka. Please keep in mind that we are still several months from the currently ordered milestones and your co-counsel are familiar with all of the discovery.

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Pg 29 of 46

As of now all previously ordered milestones are still in effect, which is why I didn't address Maj Samuel's recent motion.

V/r

Col W

From: E Kopka <[redacted]
Sent: Thursday, July 18, 2024 10:13 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; E Kopka[redacted]
Subject: [Non-DoD Source] Bopp

Sir,

Good morning, I wanted to provide an update to the Court on the status of this case. I was able to pick up the final 14 discs of discovery yesterday from the DSO. All counsel have been assisting in providing me with the discovery in this case. I have also provided a draft Motion to Amend/Continuance to all counsel for review and input on the revised dates and milestones. I am pending confirmation from one counsel on the proposed dates prior to submission to the court for consideration. Counsel advised that he should have an answer to me by the end of the week. Once the dates are confirmed I will provide the Motion to Amend to Court for consideration. Thank you.

V/R
Eric

--

Eric M. Kopka

Attorney at Military Law

825 Gum Branch Road, Suite 117

Jacksonville, NC 28540

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Pg 30 of 46

Telephone: (910) 455-6300

Facsimile: (910) 455-3012

Website: www.militaryuslawyers.com

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--

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Attorney at Military Law

825 Gum Branch Road, Suite 117

Jacksonville, NC 28540

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Eric M. Kopka
Attorney at Military Law
825 Gum Branch Road, Suite 117
Jacksonville, NC 28540
Telephone: (910) 455-6300

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Samuel Maj Jason D

From: Workman Col Adam J
Sent: Friday, August 2, 2024 10:35 AM
To: E Kopka
Cc: Samuel Maj Jason D; ejc.clerkofcourt; Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Fryman Capt Abby L; Chasity Fair; Guilds, Ryan; OSTC East; Cavallaro Capt Stefano J
Subject: RE: [Non-DoD Source] Bopp
Signed By: adam.j.workman1@usmc.mil

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>
> S/f
>
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Pg 33 of 96

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(C): [redacted]

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AE XLIX
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> As of now all previously ordered milestones are still in effect, which is why I didn't address Maj Samuel's recent motion.
>
> V/r
>
> Col W
>
> **From:** E Kopka <[redacted]
> **Sent:** Thursday, July 18, 2024 10:13 AM

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Pg 38 of 46

To: Workman Col Adam J <adam.j.workman1@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; E Kopka [redacted]
Subject: [Non-DoD Source] Bopp

Sir,

Good morning, I wanted to provide an update to the Court on the status of this case. I was able to pick up the final 14 discs of discovery yesterday from the DSO. All counsel have been assisting in providing me with the discovery in this case. I have also provided a draft Motion to Amend/Continuance to all counsel for review and input on the revised dates and milestones. I am pending confirmation from one counsel on the proposed dates prior to submission to the court for consideration. Counsel advised that he should have an answer to me by the end of the week. Once the dates are confirmed I will provide the Motion to Amend to Court for consideration. Thank you.

V/R
Eric

--

Eric M. Kopka

Attorney at Military Law

825 Gum Branch Road, Suite 117

Jacksonville, NC 28540

Telephone: (910) 455-6300

Facsimile: (910) 455-3012

Website: www.militaryuslawyers.com

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--

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--

Eric M. Kopka
Attorney at Military Law
825 Gum Branch Road, Suite 117
Jacksonville, NC 28540
Telephone: (910) 455-6300
Website: www.militaryuslawyers.com

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Samuel Maj Jason D

From: Workman Col Adam J
Sent: Friday, July 26, 2024 11:17 AM
To: Samuel Maj Jason D
Cc: ejc.clerkofcourt; E Kopka; Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Fryman Capt Abby L; Chasity Fair; Guilds, Ryan; Cavallaro Capt Stefano J
Subject: RE: Government Response to Defense Motion for Continuance - U.S. v. Bopp
Signed By: adam.j.workman1@usmc.mil

Counsel,

I am taking this matter under advisement. Expect something next week. Until then, operate IAW the current TMO. Thanks.

V/r

Col W

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Wednesday, July 24, 2024 4:09 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; E Kopka <[redacted] Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>
Subject: Government Response to Defense Motion for Continuance - U.S. v. Bopp

Good afternoon Your Honor:

Please find attached the Government's Response to the Defense Motion for a Continuance.

Very Respectfully,

Jason D. Samuel
Major, U.S. Marine Corps
Special Trial Counsel Team Lead
Office of Special Trial Counsel – Camp Lejeune
(O): 910-451-9725
*(C): [redacted] *
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Sunday, July 21, 2024 4:31 PM
To: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; E Kopka <[redacted]
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>
Subject: RE: [Non-DoD Source] Bopp

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Request GRANTED.

From: Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>
Sent: Friday, July 19, 2024 4:46 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; E Kopka <[redacted]
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>
Subject: RE: [Non-DoD Source] Bopp

Good afternoon Your Honor:

The Government will oppose this request.

The Government requests to submit its response by close of business on 24 July. I will be traveling out of state next week where I will be teaching two classes on the 23rd. The Government does not expect to request oral argument on its filing. Thank you Your Honor.

V/R,
Maj Samuel

(O): 910-451-9725
(C): [redacted]
(E): jason.d.samuel.mil@usmc.mil

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Friday, July 19, 2024 3:57 PM
To: E Kopka [redacted]>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>
Subject: RE: [Non-DoD Source] Bopp

Copy all, Mr. Kopka.

Government, what is your position? If you would like to file a response your deadline is COB 23 August. If the parties want to be heard, file a MFD for a 39a to take place NLT 2 August. Have a nice weekend, everyone.

S/f

Col W

From: E Kopka <[redacted]
Sent: Friday, July 19, 2024 2:44 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan

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<Ryan.Guilds@arnoldporter.com>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; E Kopka
<[redacted]>
Subject: Re: [Non-DoD Source] Bopp

Sir,
Good afternoon, as forecasted based on my recent involvement with this matter, I have attached a request to amend milestones/continuance for the Court's consideration. I have coordinated with all counsel and their respective clients to ensure that all parties are able to support these dates. Please let me know if you have any questions, thank you.
V/R
Eric

On Fri, Jul 19, 2024 at 9:54 AM Workman Col Adam J <adam.j.workman1@usmc.mil> wrote:

Copy all Mr. Kopka. Please keep in mind that we are still several months from the currently ordered milestones and your co-counsel are familiar with all of the discovery.

As of now all previously ordered milestones are still in effect, which is why I didn't address Maj Samuel's recent motion.

V/r

Col W

From: E Kopka <[redacted]>
Sent: Thursday, July 18, 2024 10:13 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>; ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; E Kopka <[redacted]>
Subject: [Non-DoD Source] Bopp

Sir,

Good morning, I wanted to provide an update to the Court on the status of this case. I was able to pick up the final 14 discs of discovery yesterday from the DSO. All counsel have been assisting in providing me with the discovery in this case. I have also provided a draft Motion to Amend/Continuance to all counsel for review and input on the revised dates and milestones. I am pending confirmation from one counsel on the proposed dates prior to submission to the court for consideration. Counsel advised that he should have an answer to me by the end of the week. Once the dates are confirmed I will provide the Motion to Amend to Court for consideration. Thank you.

AE XLIX
Pg 43 of 46

V/R
Eric

--

Eric M. Kopka

Attorney at Military Law

825 Gum Branch Road, Suite 117

Jacksonville, NC 28540

Telephone: (910) 455-6300

Facsimile: (910) 455-3012

Website: www.militaryuslawyers.com

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--

Eric M. Kopka
Attorney at Military Law
825 Gum Branch Road, Suite 117
Jacksonville, NC 28540
Telephone: (910) 455-6300
Facsimile: (910) 455-3012
Website: www.militaryuslawyers.com

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Samuel Maj Jason D

From: Workman Col Adam J
Sent: Thursday, August 8, 2024 11:48 AM
To: Fryman Capt Abby L
Cc: ejc.clerkofcourt; Cavallaro Capt Stefano J; Rehak Maj Joshua A; Mclaughlin Capt Jessica L; Chasity Fair; Guilds, Ryan; Samuel Maj Jason D; OSTC East; ericmkopka@gmail.com
Subject: RE: US v BOPP Breastfeeding Accommodation
Signed By: adam.j.workman1@usmc.mil

ALCON,

Due to the uncertainties created by the weather situation we will not have a 39(a) session tomorrow. We will take up the motions currently before the court at the next scheduled 39(a).

Capt Fryman: please resubmit your request prior to the next session of court.

I appreciate everyone's flexibility.

V/r

Col W

From: Fryman Capt Abby L <abby.fryman@usmc.mil>
Sent: Thursday, August 8, 2024 10:41 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; [redacted]
Subject: US v BOPP Breastfeeding Accommodation

Good morning Your Honor,

Similar to my request for a different case, I am respectfully requesting special accommodations to the Court under EJC Rule13.2a during the two upcoming 39(a)s to be afforded appropriate health and comfort breaks due to exclusively breastfeeding and pumping for my 11-month-old child. I have several options on how to go about this to minimize any interruptions to the court while being present to represent my client: (1) I would need a health and comfort for approximately 30 minutes every 3 hours to breast pump in my car and/or private office in the courthouse or my office at VLCO or (2) I have wearable breast pumps so if there is not an appropriate health and comfort where I could go pump in my car, private room in courthouse or my VLCO office, I would like to be able to briefly step out to put on/take off the wearable pumps which can be worn in the courtroom. However, the wearable pumps make an "whirring" sound that should not be disruptive to the proceedings but do make minimal noise.

In the separate case, LtCol Lipton allowed for (1) recess for no less than one hour between ~1200-1300 to provide all counsel a chow recess (and time for me to pump) and (2) a recess again for no less than 30 minutes between ~1530-1600. With the anticipation we'll be off the record NLT ~1700. This accommodation is adequate to allow me to represent my client and breast pump.

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Standing by for the Court's decision and/or input on COAs. This is only a request for the 39(a) tomorrow and the 39(a) from 3-5 September, after that it will no longer be needed.

V/r

Abby L. Fryman
Captain, U.S. Marine Corps
Victims' Legal Counsel
MCB Camp Lejeune, NC

AE XLIX
Pg 46 of 46

Fryman Capt Abby L

From: Workman Col Adam J
Sent: Wednesday, September 4, 2024 6:23 PM
To: Rehak Maj Joshua A
Cc: ejc.clerkofcourt; Cavallaro Capt Stefano J; Mclaughlin Capt Jessica L; Chasity Fair; Guilds, Ryan; Samuel Maj Jason D; OSTC East; ericmkopka; Fryman Capt Abby L
Subject: RE: US v BOPP Breastfeeding Accommodation
Signed By: adam.j.workman1@usmc.mil

Copy, thanks.

From: Rehak Maj Joshua A <joshua.rehak@usmc.mil>
Sent: Wednesday, September 4, 2024 4:22 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted] Fryman Capt Abby L <abby.fryman@usmc.mil>
Subject: RE: US v BOPP Breastfeeding Accommodation

Good afternoon Your Honor,

For the Court's awareness, I will likely not be present tomorrow. Unfortunately, MCAS Cherry Point had to move the pistol range dates, and I am on the last range of the year which is tomorrow. Our start time, 0730, will likely not give me enough time to get to Court by 0900.

I have discussed the matter with Cpl Bopp and my co-counsels. Cpl Bopp will be prepared to waive my appearance, and if timing works, I will be there as soon as I can. However, based on the two motions, I do not anticipate that I will make it.

V/r,

Joshua A. Rehak
Major, USMC
Senior Defense Counsel
MCAS Cherry Point
(o)252-466-4873
(c)[redacted]

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From: Fryman Capt Abby L <abby.fryman@usmc.mil>
Sent: Wednesday, September 4, 2024 1:04 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair

AE L
Pg 1 of 7

<Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: Re: US v BOPP Breastfeeding Accommodation

Good afternoon Your Honor,

Will do, thank you.

V/r
Capt Fryman

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Wednesday, September 4, 2024 11:26 AM
To: Fryman Capt Abby L <abby.fryman@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: RE: US v BOPP Breastfeeding Accommodation

Capt Fryman, since you are local I prefer you are in person. Thank you.

s/f

Col W

From: Fryman Capt Abby L <abby.fryman@usmc.mil>
Sent: Wednesday, September 4, 2024 10:26 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: Re: US v BOPP Breastfeeding Accommodation

Good morning Your Honor,

Received. A point of clarification, do you want myself on the Teams link or in person? Since I am local I can do whatever you prefer for this accommodation. Thank you.

V/r
Capt Fryman

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Wednesday, September 4, 2024 8:51 AM
To: Fryman Capt Abby L <abby.fryman@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D

<jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: RE: US v BOPP Breastfeeding Accommodation

Good morning Counsel,

The motion is GRANTED for this specific instance. The Court defers the technological coordination for VTC/phone to the Government.

S/f

Col W

From: Fryman Capt Abby L <abby.fryman@usmc.mil>
Sent: Wednesday, September 4, 2024 8:33 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: RE: US v BOPP Breastfeeding Accommodation

Good morning Your Honor,

Just wanted to follow-up on this motion since we are having the 39(a) tomorrow and had not heard any word regarding.

V/r

Abby L. Fryman
Captain, U.S. Marine Corps
Victims' Legal Counsel
MCB Camp Lejeune, NC

From: Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>
Sent: Wednesday, August 28, 2024 5:43 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Fryman Capt Abby L <abby.fryman@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: RE: US v BOPP Breastfeeding Accommodation

Good Afternoon Sir,

Please see the attached motion requesting a judicial modification to EJC Rule 15. I was planning on filing this previous to your request, and Capt Fryman joins in full. Capt Fryman will ensure it is added to the Teams folder as I do not have access.

Sir, I am also providing notification and respectfully requesting the Court to allow myself to observe the proceeding next week on the 4th or 5th via telephonic or VTC as I am stationed at Camp Pendleton. My client will not be attending due to those being the days he has custody of their minor daughter. I can provide a formal written filing if the Court prefers.

I am available for any further questions or concerns from the Court.

AE 6
Pg 3 of 7

Very Respectfully,

Stefano J. Cavallaro
Captain, U.S. Marine Corps
Victims' Legal Counsel
Camp Pendleton, CA

Gov Cell: 760-470-3397

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Wednesday, August 28, 2024 12:19 PM
To: Fryman Capt Abby L <abby.fryman@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: RE: US v BOPP Breastfeeding Accommodation

Capt Fryman,

Please provide a formal written filing outlining what measures will be taken to ensure compliance with the EJC Rules of Practice. Thanks.

S/f

Col W

From: Fryman Capt Abby L <abby.fryman@usmc.mil>
Sent: Monday, August 26, 2024 3:33 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: Re: US v BOPP Breastfeeding Accommodation

Good afternoon Your Honor,

Good Afternoon Your Honor,

Received Sir. I can also join in via VTC in an effort to accommodate my client. My client and her civilian VLC would be joining me in observing the 39a on the same audio/visual line as myself. I will ensure that my client's line is on mute and that she is only listening in.

My client, when presented with the new TMO date request from defense mixed up their dates due to confusion and originally thought they were available for the coming 39(a) session when asked multiple times. They have informed me they are actually traveling from Ohio to Canada on the 4th. Since these dates were originally "if necessary" they were not concerned. Now that these dates are confirmed as necessary, they would like the opportunity to listen in rather than petition the court to move the hearing dates.

AE L

I would respectfully request you permission to allow this so they can attend as they have been in attendance for all other sessions and plan to continue doing so.

I can provide a formal written filing if the court prefers.

Very Respectfully,
Capt Fryman

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Monday, August 26, 2024 3:21 PM
To: Fryman Capt Abby L <abby.fryman@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: RE: US v BOPP Breastfeeding Accommodation

Capt Fryman,

Unless co-counsel and your client are going to be co-located with a uniformed officer of the Court the request to appear virtually is denied.

Your request for special accommodation is granted, although I cannot commit the particulars yet.

S/f

Col W

From: Fryman Capt Abby L <abby.fryman@usmc.mil>
Sent: Monday, August 26, 2024 2:34 PM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; ericmkopka <[redacted]
Subject: Re: US v BOPP Breastfeeding Accommodation

Good afternoon Your Honor,

I have two requests I am respectfully asking from the court:

First, I am respectfully that my client, Ms. Christison and her civilian VLC (Chasity Fair) appear virtually for the next 39a on 3-5 September. My client is located in Ohio and Ms. Fair is located in DC. Both are unable to travel to Camp Lejeune but would like to participate virtually. I will be in attendance in person.

Second, I am renewing my previous request to accommodate breast pumping. I am respectfully requesting special accommodations to the Court under EJC Rule13.2a during the upcoming 39(a) to be afforded appropriate health and comfort breaks due to exclusively breastfeeding and pumping for my child. I have several options on how to go about this to minimize any interruptions to the court while being present to represent my client: (1) I would need a health and comfort for approximately 30 minutes every 3 hours to breast pump in my car and/or private office in the courthouse or my office at VLCO or (2) I have wearable breast pumps so if there is not an appropriate health and comfort where I could

AE C

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go pump in my car, private room in courthouse or my VLCO office, I would like to be able to briefly step out to put on/take off the wearable pumps which can be worn in the courtroom. However, the wearable pumps make an "whirring" sound that should not be disruptive to the proceedings but do make minimal noise.

In the separate case, LtCol Lipton allowed for (1) recess for no less than one hour between ~1200-1300 to provide all counsel a chow recess (and time for me to pump) and (2) a recess again for no less than 30 minutes between ~1530-1600. With the anticipation we'll be off the record NLT ~1700. This accommodation is adequate to allow me to represent my client and breast pump.

I can provide a more formal court filing if the Court requests so for either of these requests.

V/r
Capt Fryman

From: Workman Col Adam J <adam.j.workman1@usmc.mil>
Sent: Thursday, August 8, 2024 11:48 AM
To: Fryman Capt Abby L <abby.fryman@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; [redacted] <[redacted]>
Subject: RE: US v BOPP Breastfeeding Accommodation

ALCON,

Due to the uncertainties created by the weather situation we will not have a 39(a) session tomorrow. We will take up the motions currently before the court at the next scheduled 39(a).

Capt Fryman: please resubmit your request prior to the next session of court.

I appreciate everyone's flexibility.

V/r

Col W

From: Fryman Capt Abby L <abby.fryman@usmc.mil>
Sent: Thursday, August 8, 2024 10:41 AM
To: Workman Col Adam J <adam.j.workman1@usmc.mil>
Cc: ejc.clerkofcourt <ejc.clerkofcourt@usmc.mil>; Cavallaro Capt Stefano J <stefano.cavallaro@usmc.mil>; Rehak Maj Joshua A <joshua.rehak@usmc.mil>; Mclaughlin Capt Jessica L <jessica.mclaughlin@usmc.mil>; Chasity Fair <Chasity.Fair@arnoldporter.com>; Guilds, Ryan <Ryan.Guilds@arnoldporter.com>; Samuel Maj Jason D <jason.d.samuel.mil@usmc.mil>; OSTC East <OSTCEAST@usmc.mil>; [redacted]
Subject: US v BOPP Breastfeeding Accommodation

Good morning Your Honor,

AE L

Similar to my request for a different case, I am respectfully requesting special accommodations to the Court under EJC Rule13.2a during the two upcoming 39(a)s to be afforded appropriate health and comfort breaks due to exclusively breastfeeding and pumping for my 11-month-old child. I have several options on how to go about this to minimize any interruptions to the court while being present to represent my client: (1) I would need a health and comfort for approximately 30 minutes every 3 hours to breast pump in my car and/or private office in the courthouse or my office at VLCO or (2) I have wearable breast pumps so if there is not an appropriate health and comfort where I could go pump in my car, private room in courthouse or my VLCO office, I would like to be able to briefly step out to put on/take off the wearable pumps which can be worn in the courtroom. However, the wearable pumps make an "whirring" sound that should not be disruptive to the proceedings but do make minimal noise.

In the separate case, LtCol Lipton allowed for (1) recess for no less than one hour between ~1200-1300 to provide all counsel a chow recess (and time for me to pump) and (2) a recess again for no less than 30 minutes between ~1530-1600. With the anticipation we'll be off the record NLT ~1700. This accommodation is adequate to allow me to represent my client and breast pump.

Standing by for the Court's decision and/or input on COAs. This is only a request for the 39(a) tomorrow and the 39(a) from 3-5 September, after that it will no longer be needed.

V/r

Abby L. Fryman
Captain, U.S. Marine Corps
Victims' Legal Counsel
MCB Camp Lejeune, NC

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Get Outlook for iOS

AE L
Pg 7 of 7

NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT

UNITED STATES v. Jesse Bopp Corporal U.S. Marine Corps	GENERAL COURT-MARTIAL CIVILIAN DEFENSE COUNSEL NOTICE OF APPEARANCE 5 September 2024

1. Pursuant to Rule 5.1 of the Uniform Rules of Practice Before Navy-Marine Corps Courts-Martial (Uniform Rules) and Rule 5.1a of the Eastern Judicial Circuit Rules of Practice (Circuit Rules), I, Eric M. Kopka, hereby provide notice to the Circuit Military Judge of my appearance on behalf of Corporal Jesse Bopp. My office address, phone numbers, and e-mail address are: 825 Gum Branch Road, Suite 117, Jacksonville, NC, 28540; office line (910) 455-6300, fax line (910) 455-3012; [redacted] I am an active member in good standing licensed to practice in the following jurisdictions: Washington, D.C., and Rhode Island (Inactive).

2. I understand that practice in the Eastern Judicial Circuit requires me to be familiar with the Uniform and Circuit rules. Additionally, I am aware of the standards of professional conduct required of counsel practicing in Navy-Marine Corps courts-martial as contained in JAG Instruction 5803.1 series. I certify that I am not now, nor have I ever been, de-certified or suspended from practice in Navy-Marine Corps courts-martial by the Judge Advocate General of the Navy. [redacted]

Eric M. Kopka
Attorney At Military Law

AE LI
Attachment (2) 2
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****

Certificate of Service

I hereby attest that a copy of the foregoing notice of appearance was served on the court and opposing counsel personally and/or electronically on 5 September 2024.

[redacted]

Eric M. Kopka

Attachment (2)

AE 4

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UNITED STATES MARINE CORPS
VICTIMS' LEGAL COUNSEL ORGANIZATION
REGIONAL LEGAL SERVICES – EAST
LAW CENTER CAMP LEJEUNE
PSC BOX 20087
CAMP LEJEUNE NC 28542-0005

5800
VLC
27 Dec 24

From: Kassandra Christison, Article 6b Designated Representative of LCpl Austin Schwenk
To: Military Judge, Eastern Region Judicial Circuit

Subj: UNSWORN WRITTEN VICTIM IMPACT STATEMENT

1. Nothing can prepare you for a knock on your door at 2am by uniformed Marines who have come to tell you that you will never see your son again. As a Marine Corps mom, you understand that this is always a possibility once they deploy. It's not something you ever expect to happen while they are stateside in their barracks room playing video games. I have no words to express the disbelief and the pain I, as a mother, felt and still feel to this day. This will never go away. I have to carry this with me the rest of my life.

2. I ask myself the question of why this had to happen to Austin at least 3 times a day. I am constantly thinking about him, I see a car he would love, and I want to send it to him, sometimes I'm clicking that share button before it sets in that I can send this, but he will never see it.

3. More than one life was ended that day. The life I knew ended. My son, Bryce, his life as he knew it ended. My husband as well. Austin's father and sister and grandparents have had their lives and futures ended by one careless and thoughtless act. Every single one of us have to navigate a new life, a new future, one that is far dimmer than what it was supposed to be. We have to grieve for not only someone we loved being lost, but we also have to grieve what we had and all we shared. We have to grieve all the important moments that they will miss, and we will also miss. We have to grieve the future we were supposed to share. This has stolen so much from all of us. Conversations, laughter, trips, plans, moments, and time.

4. What we have left are only memories, while the memories are happy all of them bare the stark reminder that this is all there was and will ever be. There won't be new memories to be made. We got 19 years of memories that are supposed to fill a lifetime.

5. Austin was always the one who would smile and make you smile; he was so good at checking in with his friends and family. He was also the one who was always bringing extra smiles during the 24 in 24, an event that he held very close to his heart for the challenge of pushing himself to complete, but more so to help kids with life threatening illnesses. He completed 4 years of this event, and the amount of people who knew him from that event, who reached out to me to tell me how much they enjoyed his presence during the midnight hours, people I had never even met

even though I attended all these events with him. Right before he left for boot camp was sign-ups for the 8th event and he said to me "the only bad thing about joining the marines is that I can't do this event for a long time unless I can take leave for it." Knowing him, he would have taken leave to complete this event as many more times as he could have. This year, for the 10th event, the memorial mile has been named after him. "The Lance Corporal Austin Schwenk Memorial Mile", knowing that he will forever be a part of this event in this way breaks my heart. I'd rather see him here running it. Seeing his new ideas for fundraising, see him dress up in some ridiculous outfits for the theme miles. Instead, I get to come and say a few words about him before the runners run that mile.

6. He was always the first to offer help to those around him. When a friend lost control of her ATV and crashed into a fence, Austin was jumping off my still moving ATV to run to her to make sure she was ok. We were the furthest away and yet he was the first one to her. When his brother's car needed an oil change and Austin was home from bootcamp he did it for him. He talked to a friend on the phone for hours to help them get through an anxiety attack. That's who he was. He cared about those around him so much.

7. When he joined the Marines, it was no surprise, it was what he wanted since he was 5. Getting to see him graduate bootcamp, was the proudest moment of not only his life, but mine as well. To get to see him wear those uniforms and be so proud of what he had accomplished was one of the best moments of my life. Getting to be the first hug during family day, while he stood in formation at attention, I will never get a hug like that again. That was the single best hug I ever had in my life. Knowing that I will never get hugs from him again, that breaks my heart every day all over again. I'd give just about anything for just one more hug, to not have to live that moment over and over in head every day.

8. I have always been a glass half full, find the silver linings person. The one who could get through anything, because there is always a light at the end of the tunnel. All that changed with that knock on the door. Now I'm the one who can barely get through a day without anxiety medication and anti-depressants. This has changed the fundamental parts that made me who I was. I don't know who this person is now. I don't know how I am supposed to be able to breathe or get out of bed most days, let alone try to cope with this new reality. I lost so much more than a son that day, I lost a best friend. He was just getting started, just leaning his place in the world and what he wanted his life to look like. Now, I don't know what my life is supposed to look like without seeing the inescapable absence of Austin.

9. Nobody ever told me how exhausting grief is. The sleepless nights, the unanswered questions in my mind, that I can't switch off, to just be able to think about anything other than my son. The tears, countless nights of crying myself to sleep, and those dreams when I do finally sleep that wake me up because I was sobbing so hard. The feeling of the absolute weight of the world on my shoulders while I have to try to function with a broken heart that will never be healed. There

is no healing for this kind of wound. This is the down the very fiber of my being and my soul. This isn't something we are all going to bounce back from. I will be grieving this loss my entire life. Perhaps not in the way I have been in this last year, and not in a way that I can describe. I am still struggling; my emotions are heavy, and I feel so incredibly alone in my grief. It is as though, time passes, and everyone thinks that I am better, okay, healed, fixed. But I am not. The hole gets deeper, it gets heavier, and the days get darker. When I say that I am struggling in this life, it means that I do not know how to process these newfound and deep emotions of grief.

10. I have to spend the rest of my life loving someone who won't be here for any of it.

K. CHRISTISON

[redacted]

U.S. Marine Corps
Eastern Judicial Circuit
General Court-Martial

UNITED STATES **v.** **JESSE T. BOPP** **CORPORAL** **U.S. MARINE CORPS**	**Memorandum of Plea Agreement**

I, Corporal Jesse T. Bopp, USMC, the accused in the court-martial now pending, in exchange for good consideration and after thorough consultation with my defense counsel, do fully understand and agree to the following terms:

1. I agree to enter pleas as indicated below. I assert that I am, in fact, guilty of the offenses to which I am pleading guilty. I am entering into this agreement freely and voluntarily. No one has threatened or coerced me into entering this agreement.

2. This memorandum sets out the entire agreement between the convening authority and me. There are no other written, oral, or implied agreements.

3. I am satisfied with all of my defense counsels, Mr. Eric M. Kopka, Major Joshua A. Rehak, and Captain Jessica McLaughlin, in all respects and consider them qualified to represent me at this court-martial.

4. I understand that I may withdraw from this plea agreement for any reason prior to acceptance of this plea agreement by the military judge. I understand that I may also request to withdraw from this plea agreement after its acceptance, but before the sentence is announced if good cause is shown.

5. I understand that per R.C.M. 705(e)(4)(B), the convening authority may withdraw from this plea agreement:

   a. at any time before my substantial performance of the promises contained in this agreement;
   b. upon my failure to fulfill any material promise or condition in the agreement;
   c. when inquiry by the military judge discloses a disagreement as to a material term in the agreement; or
   d. if findings are set aside because a plea of guilty is held improvident on appellate review.

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6. Future Misconduct

a. I understand that should I commit any misconduct (i.e., any act or omission in violation of the UCMJ which constitutes a material breach of this agreement) after the signing of this plea agreement but before the date of trial, such misconduct may be the basis for the convening authority to unilaterally withdraw from the plea agreement, rendering the entire agreement null and void.

b. I further understand that if I commit misconduct after the date of trial, but before the date of the entry of judgment, the convening authority may, after first complying with notice and hearing requirements consistent with Article 72, UCMJ, and R.C.M. 1108, vacate the portion of the sentence that was suspended as a result of the Military Judge's or the Trial Counsel's recommendation. Should the Convening Authority vacate the suspension of any portion of my sentence based on misconduct occurring after the date of trial but before entry of judgment, I understand any suspended portion of my sentence may be imposed upon me.

c. I also understand that should I commit any misconduct after the date of the entry of judgment, or violate any of the conditions of suspension stated in this agreement during the period in which any part of my sentence is suspended, the Convening Authority may, after complying with the procedures set forth in R.C.M. 1108, vacate any periods of suspension recommended by the Military Judge or the Trial Counsel and approved by the Convening Authority. I understand that previously suspended portion of my sentence could be imposed upon me.

7. I understand that if either side withdraws from this agreement, then my offer to plead guilty and enter into this agreement cannot be used against me in any way to prove whether I am guilty or not of the charge(s) alleged against me at this court-martial or in determining an appropriate sentence. The offer to plead guilty includes any oral or written statement or proffer made as part of plea discussions with the convening authority or any counsel for the government.

8. Agreements by the accused. In exchange for the convening authority's agreement, I agree to do the following:

a. Plea as follows:

Charge/specification and elements	**Plea**	**Max Punishment Authorized by UCMJ**
Charge I (UCMJ Art 92):	GUILTY	
Specification: Violation of a Lawful General Order	GUILTY	DD, total forfeitures, 2 years confinement.

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Charge/specification and elements	Plea	Max Punishment Authorized by UCMJ
In that Corporal Jesse T. Bopp, U.S. Marine Corps, on active duty, did, onboard Marine Corps Base Camp Lejeune, on or about 18 October 2023, fail to obey a lawful general order which was his duty to obey, to wit; MCIEAST-MCB CAMLEJO 5500.1A, dated 16 August 2021, paragraph 4(c)(1), by wrongfully, possessing, carrying, displaying, firing, and discharging a weapon aboard Marine Corps Base Camp Lejeune.		
Charge II (UCMJ Art 118)	NOT GUILTY	
Specification: Murder – Act Inherently Dangerous to Another In that Corporal Jesse T. Bopp, U.S. Marine Corps, on active duty, did, onboard Marine Corps Base Camp Lejeune, on or about 18 October 2023, murder Lance Corporal A.S. by means of shooting him with a firearm.	NOT GUILTY	DD, total forfeitures, life in prison
Charge III (UCMJ Art 119)	GUILTY	
Specification: Involuntary Manslaughter – Culpable Negligence In that Corporal Jesse T. Bopp, U.S. Marine Corps, on active duty, did, onboard Marine Corps Base Camp Lejeune, on or about 18 October 2023, by culpable negligence, unlawfully kill Lance Corporal A.S. by means of shooting him with a firearm.	GUILTY	DD, total forfeitures, 10 years confinement

b. **Findings and Sentencing Forum Election Agreements**

I agree to elect trial and sentencing by military judge alone, and I waive my right to a trial by members, including enlisted members.

c. **Witness Considerations**

I agree not to request in presentencing, at government expense, the presence of any witness located out of the area. This provision does not interfere with my ability to present an effective case in extenuation and mitigation. If I have further material to present, I intend to use alternative means to present this material. The government specifically agrees not to object to the admission into evidence of written statements in extenuation and mitigation from witnesses. The government and I also agree to not object to the Court receiving telephonic testimony in lieu of live testimony offered during presentencing. This provision does not preclude objections to the content of the testimony offered.

d. **Agreement not to object to evidence offered**

The government and I agree not to object to relevant service record documents, relevant medical or autopsy reports, relevant command investigation materials, relevant Naval Criminal Investigative Service evidentiary material, relevant statements offered by the defense in extenuation and mitigation, relevant expert reports, or relevant statements offered by the government in aggravation to include written, audio, or videotaped statements or telephonic testimony of any crime victim or relevant witness being offered by either party during presentencing or relevant unsworn testimony by a crime victim who exercises the right to be reasonably heard and is called by the court-martial in accordance with R.C.M. 1001A on the basis of foundation, hearsay, lack of confrontation, or authenticity. Each party will provide the other party final witness and exhibit lists covered by this paragraph at least 7 calendar days prior to the scheduled presentencing proceeding. This provision does not interfere with my ability to present an effective and complete case in extenuation and mitigation.

e. **Stipulation of fact**

The government and I agree to enter into the stipulation of fact to this agreement for use during the providence inquiry and during the presentencing process.

f. **Motion considerations**

I specifically agree to waive all motions except those that are non-waivable pursuant to R.C.M. 705(c)(1)(B) or otherwise.

9. Agreements by the Convening Authority. In exchange for my agreements, the convening authority agrees to do the following:

a. The convening authority agrees to withdraw the language and charge and specifications to which I have pled not guilty in return for my pleas of guilty and following the Military Judge's acceptance of my pleas as set forth below. The convening authority agrees that, after the announcement of the sentence by the Military Judge, the withdrawn language, charge, and specification will be dismissed without prejudice to ripen into prejudice upon completion of appellate review where the findings and sentence have been upheld.

~~b. If pursuant to the adjudication of a sentence, I meet eligibility criteria established by Navy Personnel Command (PERS-00D1), HQMC (PSL), or other applicable authority and the confinement facility, the convening authority will recommend in writing to the applicable authority that contact be established with PERS-00D1, the brig I am confined in, and the Naval Consolidated Brig, within 10 days to recommend that I be placed in a Naval Consolidated Brig, which is a level 2 military facility that is able to house prisoners with less than ten years of confinement. I understand that my placement in a military facility can be recommended by the convening authority, but that my placement in such a facility cannot be guaranteed. I further agree to voluntarily participate in any programs offered to me to include truthful admissions of my misconduct required for rehabilitation.~~ CA: NO

10. Sentencing Limitations:

The parties agree that the Military Judge may only sentence as follows:

a. Punitive discharge: A dishonorable discharge shall be adjudged. CA: NO
b. Confinement: Shall be adjudged as set forth in Table A.
c. Forfeiture: ~~Forfeitures may be adjudged. Total forfeitures shall be adjudged.~~ TC for CA AC JTH DC JLM DC JR CDC EK
d. Fine: Shall not be adjudged.
e. Reduction: ~~The maximum reduction in grade that may be adjudged is reduction to pay grade E-1.~~ Reduction to E-1 shall be adjudged.
f. No other lawful punishments may be adjudged.

TABLE A

	Confinement				Fines	
	Minimum	Maximum	To be served consecutively with…	To be served concurrently with…	Minimum	Maximum
Charge I: Violation of Article 92						
Specification	Three (3) years	Eight (8) years	N/A	Charge III	N/A	N/A
Charge II: Violation of Article 118						
N/A	N/A	N/A	N/A	N/A	N/A	N/A
Charge III: Violation of Article 119						
Specification	Three (3) years	Eight (8) years	N/A	Charge I	N/A	N/A
Total that may be adjudged (*accounting for consecutive or*	Three (3) years	Eight (8) years	N/A	Charges I and III	N/A	N/A

CA: NO

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concurrent sentence)						

11. Notification provisions. I have been advised of the following potential consequences of my plea(s) of guilty and resultant convictions:

a. My defense counsel has advised me that my guilty pleas to the charges and specifications contained in this agreement may preclude me from the ownership, receipt, or transport of any firearm that has been transported in interstate or foreign commerce under 18 U.S.C. § 922(g).

b. My defense counsel has advised me that my guilty pleas to the Charges and Specifications contained in this agreement may result in my discharge from the Marine Corps for misconduct, either by punitive or administrative means. This may require me to repay the government for any and all advanced educational assistance benefits that I have received (in accordance with JAGMAN § 0171 and 10 U.S.C. § 2005). This repayment will occur in the case that my early separation from the Marine Corps precludes me from fulfilling any additional service requirements that were required as consideration for this advanced educational assistance.

c. My defense counsel has advised me that any punitive discharge that is adjudged and ultimately approved in my case may adversely affect my ability to receive Veterans' and all other benefits accrued as a result of my military service.

d. I understand that I may be placed on appellate leave under the provisions of 10 U.S.C. § 876a, Article 76a of the UCMJ, if the sentence, as approved, includes an unsuspended punitive discharge. I understand that an individual placed into an appellate leave status will normally not receive any pay or allowances. I further understand that receipt of pay and/or allowances while in an appellate leave status will depend on the amount of accrued leave I have accumulated and chose to use, and on the sentence awarded by this court-martial. Furthermore, I agree that, should a punitive discharge be adjudged, I will submit, at the conclusion of my trial, a written request to be placed on appellate leave.

SIGNATURE PAGE

By my signature below, I acknowledge that I have read this agreement completely, discussed it with my counsel, understand it in all respects, and am prepared to abide by its terms.

Accused: [redacted] Date: 20240807
JESSE T. BOPP
Corporal USMC

Defense Counsel: [redacted] Date: 20240807
ERIC M. KOPKA
Civilian Defense Counsel

Defense Counsel: [redacted] Date: 20240807
JOSHUA A. REHAK
Major
USMC

Defense Counsel: [redacted] Date: 16 AUG 24
JESSICA L. MCLAUGHLIN
Captain
USMC

The foregoing plea agreement is approved, including the sentence limitation portion of this plea agreement.

Convening Authority: [redacted] Date: 9 SEP 2024
(or designee, see R.C.M. 705(e)(3))
Commanding General
2d Marine Division
USMC

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ADDENDUM: MEMORANDUM OF PLEA AGREEMENT ICO U.S. V. CORPORAL JESSE T. BOPP, U.S. MARINE CORPS

TABLE A

	Confinement				Fines	
	Minimum	Maximum	To be served consecutively with...	To be served concurrently with...	Minimum	Maximum
Charge I						
Specification	1 year	2 years	Charge III	N/A	N/A	N/A
Charge II						
Specification	N/A	N/A	N/A	N/A	N/A	N/A
Charge III						
Specification	3 years	10 years	Charge I	N/A	N/A	N/A
Total that may be adjudged (*accounting for consecutive or concurrent sentence*)	4 years	12 years	All others	N/A	N/A	N/A

The foregoing plea agreement is approved, including the sentence limitation portion of this plea agreement as modified by this addendum page.

Convening Authority [redacted] Date: 9 SEP 2024
(or designee, see D. L. ODOM
R.C.M. 705(e)(3)) Major General, U.S. Marine Corps

Accused: [redacted] Date: 12 Sep 24
Jesse T. Bopp
Corporal, U.S. Marine Corps

Defense Counsel: [redacted] Date: 12 Sept 24
Eric M. Kopka
Civilian Defense Counsel

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ADDENDUM: MEMORANDUM OF PLEA AGREEMENT ICO U.S. V. CORPORAL JESSE T. BOPP, U.S. MARINE CORPS

Defense Counsel: _____ Date: _____

Joshua A. Rehak
Major, U.S. Marine Corps

Defense Counsel: _____ Date: _____

Jessica L. McLaughlin
Captain, U.S. Marine Corps

NAVY-MARINE CORPS TRIAL JUDICIARY
EASTERN JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES	)	VICTIMS' LEGAL COUNSEL NOTICE OF APPEARANCE ON BEHALF OF MR. ROBERT SCHWENK, JR.
v.	)	
JESSE T. BOPP CORPORAL U.S. MARINE CORPS	)	1 May 2024

1. Pursuant to Rule 36 of the Uniform Rules of Practice Before Navy-Marine Corps Courts- Martial (Uniform Rules) I, Captain Stefano J. Cavallaro, USMC, hereby provide notice to the Circuit Military Judge of my appearance on behalf of Mr. Robert Schwenk, Jr. My office address, phone number, and e-mail address are:

   Room 117, Building 130176T
   Camp Pendleton, CA 92055
   424-666-7514
   stefano.cavallaro@usmc.mil

2. I have been detailed as the Victims' Legal Counsel for the above named victim in this case by the Regional Victims' Legal Counsel, Major Angel Alfaro. I am qualified and certified under Article 27(b) and sworn under Article 42(a) of the Uniform Code of Military Justice. I am an attorney and licensed to practice law in the state of Florida. I am a member in good standing of the Florida Bar, the Bar of the Navy-Marine Corps Court of Criminal Appeals, and the Bar of the Court of Appeals for the Armed Forces. I have not acted in any disqualifying manner.

3. I am aware of the standards of professional conduct required of counsel practicing in Navy-Marine Corps courts-martial as contained in JAG Instruction 5803.1E. I certify that I am not now, nor have I ever been, de-certified or suspended from practice in Navy-Marine Corps courts-martial by the Judge Advocate General of the Navy.

4. I have reviewed and am familiar with the Uniform Rules of Practice for the Navy-Marine Corps Trial Judiciary as well as the Eastern and Western Judicial Circuit Rules of Practice.

5. My client has limited standing as a named victim in this court-martial, and reserves the right to exercise those rights through counsel as needed.

6. Respectfully submitted this 1st day of May 2024.

[redacted]
S. J. CAVALLARO

AE LIV
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Molly D. House, LTC, MC
Madigan Army Medical Center
9040A Jackson Ave Joint Base Lewis-McChord, WA 98431 (360) 742-7723
molly.d.house.mil@health.mil
Last updated: December 18, 2024

Current Position(s)
Regional Deputy Medical Examiner, Armed Forces Medical Examiner System, 2022-Present
Dover AFB, DE

Education
Fellowship, Forensic Pathology, Virginia Commonwealth University Health Sciences, Norfolk, VA 2021-2022
Residency, Pathology (AP/CP), Madigan Army Medical Center, JBLM, WA 2009-2013
Doctor of Osteopathy, Texas College of Osteopathic Medicine, Fort Worth, TX 2005-2009
Bachelor of Science in Forensic Science, (cum laude), Baylor University, Waco, TX 2001-2004

Academic Appointments
Assistant Professor, Uniformed Services University of the Health Sciences, Bethesda MD 2024
Pathology Residency Program Director, Madigan Army Medical Center, JBLM WA 2022-2023
Adjunct Clinical Assistant Professor of Medical Education-Texas A&M University 2016-2020

Professional Positions and Experience
Medical Director, Blood Services, Carl R. Darnall Army Medical Center, Fort Hood, TX 2013-2021
Staff Pathologist, Carl R. Darnall Army Medical Center, Fort Hood, TX 2013-2021
Chief, Anatomic Pathology, Carl R. Darnall Army Medical Center, Fort Hood, TX 2019-2020
Chief, Clinical Pathology, Carl R. Darnall Army Medical Center, Fort Hood, TX 2017-2019

Certification and Licensure
Diplomate, American Board of Pathology (FP) 2022-Present
Diplomate, American Board of Pathology (AP/CP) 2014-Present
Washington State Medical License 2022-Present

Committee Assignments and Administrative Services
Graduate Medical Education Committee, Madigan Army Medical Center, JBLM, WA 2022-2023
Program Evaluation Committee, Madigan Army Medical Center, JBLM, WA 2022-2023
Clinical Competency Committee, Madigan Army Medical Center, JBLM, WA 2022-2023
Safety Committee, Office of the Chief Medical Examiner, Norfolk, VA 2021-2022
Ethics Committee, Carl R. Darnall Army Medical Center, Fort Hood, TX 2020-2021
Risk Management Committee, Carl R. Darnall Army Medical Center, Fort Hood, TX 2017-2021
Blood Utilization Committee, Carl R. Darnall Army Medical Center, Fort Hood, TX 2013-2021

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Educational Activities

Presenter, Child Abuse Symposium presented by US Army Defense Counsel Assistance Program, Nashville, TN 2024

Presenter, Special Trial Counsel Certification Course, "Understanding the Autopsy Report," US Army Advocacy Center, Fort Belvoir, VA 2024

Graduate Medical Education Committee, Madigan Army Medical Center, JBLM, WA 2022-2023

Program Evaluation Committee, Madigan Army Medical Center, JBLM, WA 2022-2023

Clinical Competency Committee, Madigan Army Medical Center, JBLM, WA 2022-2023

Facilitator, "Nutrition Basics and the ACFT," Carl R. Darnall Army Medical Center, Fort Hood, Tx 2021

Scholarly Activity

"Hand Injuries in Suicidal Gunshot Wounds: Report of 3 Cases," presented at 2022 National Association of Medical Examiners (NAME) annual meeting, Dallas, TX

"CADASIL, Sudden Death, and Drowning," poster presentation at National Association 2022 of Medical Examiners (NAME) annual meeting, Dallas, TX

"A Reconstruction of Events, Including a Self-Inflicted Gunshot Wound, Leading to 2022 a Fatal Motor Vehicle Collision," poster presentation at 2022 American Academy of Forensic Sciences (AAFS) annual meeting, Seattle, WA

Professional Community Activities

Presenter, "Introduction to Forensic Science," Nisqually Middle School, Lacey, WA 2022-2024

Presenter, "Medical Detectives," Nisqually Middle School, Lacey, WA 2023

Presenter, "Introduction to Forensic Science," Peninsula Catholic High School, 2022 Newport News, VA

Member, Board of Curriculum and Student Development, St. Joseph Catholic School, 2018 Killeen, TX

HOUSE.MOLLY.DIANE.[redacted] Digitally signed by HOUSE.MOLLY.DIANE.[redacted] Date: 2024.12.18 12:26:01 -08'00'

Molly D. House, D.O.

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How do you write a statement to a court and someone who killed your son? How do you put those words together? How do you describe that pain? How do you express that loss? And how do you relay those feelings for your even younger child who lost her brother? This is not everything I have or want to say, but what I can say within the bounds of the court, and likely all I will be able to get out at this time.

I am a Marine Corps veteran, Corporal Robert B. Schwenk Jr, 2002-2006. I was a 4421 and worked for the Staff Judge Advocate of the 2nd Marine Division. This was my home. I didn't have a good childhood, I didn't have an easy life, and when I found out that I was going to be a father to my eldest son, Bryce, I enlisted into the Marines a few months later. I missed his birth because I was in boot camp. And as much as I love my son, it was difficult when I first met him, going from a culture shock experience to being a dad. On May 22, 2004, Austin was born here on Camp Lejeune, at the Naval Hospital. I have forgotten a lot of things in my life, but I remember that day. I remember my heart dropping waiting to hear that first cry. But that kid was born a Marine. I missed his first birthday through deployment to Fallujah with RCT8.

So you may ask, what does that have to do with any of this. Well, I learned throughout my life that there was a natural connection that was missed by not being there for Bryce's birth. We both love each other, we both try, but when I first met him, he was two weeks old and I was a stranger, and was a stranger for most of the first year of his life while his mom finished high school before joining me on base. So we missed that connection that we both try so hard to find even now, almost 22 years later. With Austin, it came naturally, I was there for most of his first year and was only gone for my deployment. No matter what, with Austin, I could do no wrong.

Even in my darkest hours, while I lived in suicidal thoughts, and lost in a dark world in my head, Austin was there, looking up to me, encouraging me and talking to me. When I was in that place, I told him not to join the Marines, not to follow in my path, because I didn't want to see that for him. It crushed him, and I know it did, but I didn't want to see the bright spirit of my son turned as dark as my light had become. Then, as I walked in my own healing journey, Austin started to walk on it with me. I reversed course and encouraged him to join. We spoke about forgiveness, not about asking for it from others, but finding it from within and forgiving ourselves for our own transgressions. He was strong in his faith, despite my not having the same faith. As he grew, and I grew, we became happier and stronger in that relationship. Spoke of life, love, goals, passions, and the world around us. He would send random videos of things he liked or thought was funny to every social media platform we were both on. I would listen to him ramble on about video games, anime, the Marines, and so on. When I was completely alone, he was still there. He spoke of the grandchildren he

was to give me one day, he spoke of his passions and goals, talking about opening a garage, or following my footsteps yet again and going to law school. He was still young and unsure of his future, but was damn proud of being a Marine.

I have a couple unit tattoos on my back, the 2nd Marine Division logo and the 8th Marines Moto, as well as a memorial tattoo for my friend Lance Corporal Holly Charrette, who held Austin as a baby. But it wasn't until my son became a Marine, and just over two years ago, that I got my EGA, a matching tattoo with him. Now, right by it I have a tattoo in his handwriting that says "I love you" copied from one of his boot camp letters, so that I can see it every day. Austin was my son, my legacy, a big piece of my heart, and a big piece of my living. On October 18th, 2023 that was taken away from me. The following day, still hadn't slept since the Marines showed up at my door, I ended up in the hospital from nearly drinking myself to death.

This event triggered major issues with my PTSD. I have spent many occasions hyperventilating trying to catch my breath due to overwhelming grief and panic. I struggle concentrating on anything in my life at this point. I am continuously stress sick, including right now while writing this, due to all of this, and the fact there even is a plea agreement. I don't agree with any of it. I struggle with finding joy in anything, or if I am enjoying it, I am crushed by the thought that Austin isn't here for me to talk about it, or enjoy with me. He was my concert buddy, and I struggle with wanting to go to concerts any more. We played video games together, and I struggle with wanting to play those or to discuss them with him. I miss my son every single day. I now spend most days alone, time with friends few and far between, communication with family few and far between. This destroyed my whole world in an instant.

My daughter, most likely the most resilient person I know, has faced a completely devastating tragedy to her life. When she was born, Austin couldn't wait to hold her, and still would whenever he was home. He would still play with her like he was her age and run around, play hide and go seek, play Lego, have tea parties with her. He would buy her presents and text and call her. We would surprise her when he came home and the way both of their faces lit up and turned red with emotions was the most beautiful thing in the world. He would joke about how he would be the uncle from the scene from movies where he would prank and scare her future boyfriends and make sure that his sister was protected. Now those experiences are gone. She won't have her brother for that, for holidays, for graduation, for her wedding, for cousins to play, to confide in, none of that, it is all gone. Bryce lost a lot of that too. Austin was the glue that kept all his siblings together.

I am also emotionally devastated by all of these proceedings. I have not seen one ounce of remorse and have actually seen the defendant smile in this court room. I read an apology

letter, that wasn't an apology, but a cry for leniency. I read letters from the family that have the same tone. I went to law school, I see and can read the legal "mumbo jumbo" in them. The repeated phrases guided by attorney advice. Thanks to this deal, one day he will be free, one day the family will get to enjoy the company of their son and brother, and maybe even have grandchildren from him. I will never again get to experience that love and joy from my son who was taken from me. My daughter will never again get to experience the love and joy that her brother brought her. And I will never forget the feeling of my son not responding to me after I heard about the shooting, before I knew it was him. I felt it so deep in my soul. The last time my son was home, he told me he was proud of me, and I am forever proud of the man he became.

Your excuses are not valid with me, your plea is not valid with me, and I will not give you the rank, privilege, or title of a Marine, you are no brother of mine.

APPELLATE AND POST-TRIAL RIGHTS AND POST-TRIAL ADMINISTRATIVE PROCESSING

Rule for Courts-Martial (R.C.M.) 1010 requires your defense counsel to advise you on your post-trial and appellate rights. You may also request that the military judge explain all or any portion of your appellate rights in open court prior to adjournment of your court-martial.

Access to the Court-Martial Record

Pursuant to R.C.M. 1106(c), upon adjournment of your court-martial, you have the right to request a copy of the recording of all open sessions of the court-martial and a copy of, or access to, the evidence admitted at the court-martial, and a copy of the appellate exhibits. You may request the recording, evidence, and exhibits be provided to you or your counsel. Neither you nor your counsel will be provided access to sealed or classified court-martial material or recordings unless authorized by R.C.M. 1106 or R.C.M. 1113. You may use the materials provided to prepare matters for consideration by the Convening Authority (CA).

Submission of Matters to the Convening Authority

Pursuant to Article 38(c), Uniform Code of Military Justice (UCMJ), and R.C.M. 1106, within 10 calendar days after the announcement of the sentence, you have a right to submit matters to the CA before that officer takes action on your case. If you elect to submit matters, you must do so within 10 calendar days after the announcement of the sentence, though the CA may extend this for not more than additional 20 calendar days, for good cause shown. Your defense counsel will normally compile and submit the matters on your behalf in consultation with you. Failure to submit matters within the time prescribed waives the right to submit matters later. If a crime victim submits matters for the CA's consideration, you will be given an additional 5 calendar days from receipt of those matters to submit a rebuttal to those matters. You may not seek an extension of time to submit a rebuttal to matters submitted by a crime victim. In either submission, you are prohibited from including matters that relate to the character of a crime victim unless such matters were admitted as evidence at trial.

Possible Action by the Convening Authority

a. The CA has authority to act only in certain cases. For cases involving convictions for offenses committed only after 1 January 2019, under Article 60a, UCMJ, and R.C.M. 1109 the CA *cannot* act on the *findings* if any of the following applies:

- you have been convicted of a sexual offense listed in Articles 120(a), 120(b) or 120b, UCMJ;

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- the *authorized maximum confinement* for any *offense* of which you have been convicted exceeds two years, regardless of the court's jurisdictional maximum;
- the *adjudged sentence* includes a punitive discharge (Dismissal, Bad Conduct Discharge, or Dishonorable Discharge); or
- the *adjudged confinement* is more than six months.

In those cases, the CA may take action on the *sentence* only as provided in R.C.M. 1109(c).

b. In all other cases involving convictions for offenses committed only after 1 January 2019, the CA may, but is not required to, take action on the findings and sentence and grant clemency within the limits of Articles 60a or 60b, UCMJ, and R.C.M. 1109 or 1110. In those cases, the CA may take:

- no action;
- action on the findings, if allowed by law; or
- action on the sentence, if allowed by law.

c. In any case involving a conviction for an offense committed before 1 January 2019, the CA may take action on either the findings of guilty or sentence adjudged within the limits of Article 60, UCMJ that was in effect at the time of the earliest offense for which you were convicted. The action to be taken on the findings and sentence may be limited by Article 60, UCMJ, depending on the date of the offense, the type of offense, the maximum punishment of the offense, the recommendation of the trial counsel, the existence of a pretrial agreement, and the punishment awarded. When authorized to act, the CA possesses the sole discretion to approve, disapprove, commute, or suspend the sentence in whole or in part; set aside a finding of guilty; order a rehearing on a finding of guilty; or approve a lesser included offense of a finding of guilty.

d. If the CA has the power to approve, disapprove, commute, or suspend the sentence in whole or in part, set aside a finding of guilty, order a rehearing on a finding of guilty, or approve a lesser included offense of a finding of guilty, that decision is within the sole discretion of the CA. The CA may suspend a sentence in certain cases when recommended by a military judge or by the trial counsel. The CA is not required to review the case for legal errors or factual sufficiency, but may order a rehearing only in the circumstances provided for in Article 60b, UCMJ.

In the post-trial process, the CA and the Military Judge may never increase the severity of the sentence and are not empowered to reverse a finding of not guilty.

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APPELLATE AND POST-TRIAL RIGHTS AND POST-TRIAL ADMINISTRATIVE PROCESSING

Entry of Judgment

Pursuant to Article 60c, UCMJ, and R.C.M. 1111, the military judge will complete the Entry of Judgment (EOJ) and attach it to the record of trial. The EOJ reflects the result of your court-martial as well as the results of the CA's action. The EOJ will include the final sentence, which will account for any modifications made by the CA during the post-trial review process or any post-trial ruling, order, or other determination by the military judge. The EOJ will also include the total amount of sentence credit, if any, to be applied to a sentence as of the date of the EOJ. The EOJ terminates the trial proceedings, ends any period of deferment, and initiates the post-trial review process. A copy of the EOJ will be provided to you or your defense counsel, according to your election below.

Certified Record of Trial

Pursuant to Article 54, UCMJ, and R.C.M. 1112(b), the certified record of trial (ROT) is comprised of an audio recording of all open sessions, all evidence admitted, and all appellate exhibits. A copy of the certified ROT will be assembled and provided to either you or your defense counsel, according to your election below. Recordings and exhibits that are sealed or contain classified materials will not be provided to you. Should you need to review those materials, you or your defense counsel must submit a request pursuant to R.C.M. 1106 or R.C.M. 1113.

Appellate and Post-Trial Review

a. **Automatic Review.** Pursuant to Article 66(b)(3), UCMJ, if your sentence includes death, dismissal, a punitive discharge or confinement for two years or more, the Navy Marine-Corps Court of Criminal Appeals (NMCCA) will automatically review your case.

b. **Eligible for Review.** Pursuant to Article 66(b)(1)(A), if your sentence is not subject to automatic review, you may file an appeal to have the NMCCA review your case. Under Article 66(b)(1), UCMJ, this appeal must be timely. Article 66(c), UCMJ, provides that an appeal is timely if filed before the later of: (1) the end of the 90-day period beginning on the date you are provided notice of your right to appeal in accordance with Article 65(c)(1), or (2) the date set by the NMCCA by rule or order. With respect to an appeal submitted to the NMCCA for review, the scope of review is limited to the findings and sentence as entered into the record. Upon a specific showing by you that there was a deficiency of proof, the NMCCA may also consider whether the findings are correct in fact. The NMCCA has the authority to set aside findings, set aside the sentence, modify the sentence to a lesser sentence, affirm a lesser-included offense, order additional proceedings, and/or order that the charges be dismissed.

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c. **Review beyond NMCCA.** Pursuant to Article 67(a), UCMJ, after completion of NMCCA review, upon your request or that of the Judge Advocate General (JAG), the Court of Appeals for the Armed Forces (CAAF) may review your case. You may petition the CAAF within 60 days from the earlier of (1) the date you are notified of the NMCCA's decision, or (2) the date on which a copy of the NMCCA decision is deposited in the mail for delivery to you. CAAF review of your petition is discretionary in non-death penalty cases and, if it grants your petition, CAAF may act only with respect to the findings and sentence as entered into judgment and as affirmed or set aside as incorrect in law by the NMCCA.

d. **Review by a Judge Advocate**. If your case is not subject to automatic review by the NMCCA and you do not seek direct appeal, a judge advocate will review your case in accordance with Article 65(d), UCMJ. The review is limited to whether the court had jurisdiction over you and the offense; whether the charge and specification stated an offense; and whether the sentence was within the limits prescribed by law. You may also submit written allegations of error for review. Relief recommended by this review is forwarded to the JAG for consideration, who may set aside the findings or sentence, in whole or in part.

e. **Waiver of Appellate Review**. You may waive your right to appellate review if your case qualifies for automatic review, or you may withdraw your case from appellate review at a later time. **This is a significant decision and you should fully understand your appellate rights and the implications of a waiver before you forego appellate review.** You have the right to the advice and assistance of counsel in exercising or deciding to waive your appellate rights. This may include the assistance of an appellate defense counsel in coordination with your trial defense counsel. If you submit a waiver or withdraw from the appellate review process, your case will be reviewed under Article 65(d)(3), UCMJ. The review is limited to whether the court had jurisdiction over you and the offense; whether the charge and specification stated an offense; and whether the sentence was within the limits prescribed by law.

f. **Review by the JAG**. Under Article 69, UCMJ, within one year after the end of the 90-day period beginning on the date you are provided your appellate rights pursuant to Article 65(c), the JAG may review your application to send your case to the NMCCA. In the event that you submit a waiver or withdrawal of appellate review under Article 61 before being provided notice of these rights, your application must be submitted to the JAG no later than one year after the entry of judgment under Article 60c. The JAG may extend the period of submission, for good cause shown, but may not consider an application submitted more than three years after the end of the applicable submission period. The scope of review is limited to whether your withdrawal or waiver of appellate review was invalid under the law. If the JAG determines that it was invalid, he or she will send your case to the NMCCA for review under Article 66, UCMJ.

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APPELLATE AND POST-TRIAL RIGHTS AND POST-TRIAL ADMINISTRATIVE PROCESSING

Right to Counsel

a. **Post-trial Matters**. It is your trial defense counsel's responsibility to represent you until the EOJ. Your trial defense counsel is responsible for examining the Statement of Trial Results, the findings, the sentence, the CA's Action, and the EOJ for errors or legal insufficiency. It is your trial defense counsel's obligation to advise and assist you in preparing and submitting post-trial matters or motions, if applicable, to the military judge before the EOJ, or to correct the EOJ within five days after it is provided to you.

b. **Article 65(d), UCMJ**. If your case is not subject to automatic review and you do not seek direct appeal of your case at the NMCCA, your trial defense counsel will continue to represent you through the Article 65(d), UCMJ, review process. Your trial defense counsel will also represent you through a subsequent Article 69, UCMJ, review, subject to such review's limitations discussed above if you elect this additional review.

c. **Appellate Defense Counsel**. If your case is subject to automatic review by the NMCCA or you do seek direct appeal, you have the right to a military appellate defense counsel to represent you at no cost. Detailed appellate defense counsel represent you on appeals before the NMCCA, the CAAF, and the Supreme Court of the United States.

- Special Power of Attorney. If you wish to be represented by a military appellate defense counsel before the NMCCA, the CAAF, or the Supreme Court you may sign a special power of attorney, which authorizes a detailed military appellate defense counsel to take actions on your behalf during the appellate review process. The original, signed special power of attorney must be notarized and attached to the original record of trial. If you do not sign the special power of attorney now, you do not waive the right to a military appellate defense counsel at a later date.

- How to Contact Appellate Defense Counsel. If you qualify for appellate representation and have not been contacted by your military appellate defense attorney 120 days after the conclusion of your trial, you may contact the Navy-Marine Corps Appellate Defense Division at 1-202-685-7290 or 1-800-688-4613. It is your responsibility to affirmatively provide updated contact information to your appellate defense counsel throughout the appellate process. This is critical to ensuring an appellate defense counsel can form the necessary attorney-client relationship and contact you regarding your case.

- Military Appellate Defense Counsel will Contact You. The Navy and Marine Appellate Review Activity (NAMARA) will make reasonable efforts to contact you when your case is ready for appellate review. **Should NAMARA be**

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unable to contact you and if you elected not to sign the special power of attorney, the NMCCA will conduct the automatic review of your case under Article 66(b)(3) without input from you. No appellate attorney at NAMARA will be able to appeal the NMCCA's decision to the CAAF unless you contact NAMARA and authorize an appellate attorney to represent you at that point. For more information on appellate defense counsel visit http://www.jag.navy.mil/organization/code_45.htm

- Civilian Appellate Defense Counsel. If you wish, you may hire a civilian attorney at no expense to the government to represent you throughout the post-trial and appellate processes.

Petition for New Trial

a. At any time within three years after the date of the EOJ, you may petition for a new trial on the ground of newly discovered evidence or fraud on the court-martial pursuant to Article 73, UCMJ, and R.C.M. 1210.

b. A petition for a new trial on the basis of fraud on the court-martial must demonstrate how the fraud had a substantial contributing effect on a finding of guilty or the sentence adjudged.

c. A petition for a new trial on the ground of newly discovered evidence will only be granted if: (1) the evidence was discovered after the trial; (2) the evidence would not have been discovered by you or your defense counsel during your trial if you or your counsel exercised due diligence; and (3) the newly discovered evidence, if it had been considered by the trial court, in light of all other pertinent evidence, would probably produce a substantially more favorable result for you. You may not submit a petition for a new trial on the basis of newly discovered evidence if you pleaded guilty.

Post-Trial Processing and Notifications

a. **Effective Date of Sentence**. Pursuant to Article 57(a) and R.C.M. 1102(b), forfeitures and reduction in rank, whether adjudged or automatic, take effect 14 days after the sentence is announced. Pursuant to Article 57(b) and R.C.M. 1103, you may request that the CA defer service of a sentence to confinement, forfeitures, or reduction in rank until the EOJ.

b. **Automatic Forfeitures**. If the adjudged sentence includes either (1) confinement for more than six months or death, or (2) confinement for any period and a punitive discharge, Article 58b, UCMJ, requires the automatic imposition of forfeiture of all pay and allowances at a general court-martial or 2/3 pay at a special court-martial during the period of confinement. This applies regardless of whether the sentence is suspended. If you have dependents, pursuant to Article 58b(b), you

may apply to the CA to waive automatic forfeitures, to be paid to your dependents for a period of up to six months. You must establish an allotment in order for your dependents to receive any waived pay and allowances. If you are held in confinement beyond your End of Active Obligated Service date, you or your dependents will not receive any pay or allowances by operation of law.

c. **Automatic Reduction in Pay Grade**. Automatic reduction to the lowest enlisted pay grade by operation of Article 58a, UCMJ, will be effected in the Naval service in the following manner:

- For any conviction for an offense committed before 1 January 2019, reduction to the lowest enlisted pay grade will be automatically effected only when the sentence as approved by the CA includes, whether or not suspended, either: (1) a dishonorable or bad-conduct discharge, or (2) confinement in excess of 90 days if the sentence is awarded in days, or in excess of 3 months if the sentence is awarded in months or years. This automatic reduction in rank goes into effect 14 days after the announcement of the sentence.

- Automatic reduction in pay grade is not authorized in any conviction for an offense committed on or after 1 January 2019 and before the President has delegated authority to the Secretary of the Navy to establish conditions for automatic reductions.

- For any conviction for an offense committed both on or after 1 January 2019 and after the President has delegated authority to the Secretary of the Navy to establish conditions for automatic reductions, reduction to the lowest enlisted pay grade will be automatically effected for any sentence that includes: (1) a dishonorable or bad-conduct discharge; or (2) confinement in excess of 90 days if the sentence is awarded in days, or in excess of 3 months if the sentence is awarded in months or years. This automatic reduction in rank goes into effect 14 days after the announcement of the sentence.

d. **Vacation of Suspended Sentences**. If you commit misconduct after the date of trial but before completing any period of suspension established by your plea agreement or the period of suspension recommended by the military judge or the trial counsel, or if you violate any of the conditions of suspension stated in your plea agreement during this time period, the CA may vacate any periods of suspension in accordance with R.C.M. 1108. If that occurs, any previously suspended portion of your sentence could be imposed upon you.

e. **Appellate Leave**. If your sentence includes an unsuspended punitive discharge, you may be placed on appellate leave in a no-pay status under the provisions of Article 76a, UCMJ, notwithstanding any provision regarding forfeitures or fines in any plea agreement. A service member placed in an appellate leave status will normally not receive any pay or allowances. Receipt of pay and/or

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allowances while in an appellate leave status will depend on the amount of accrued leave you have accumulated, request to use, and receive command approval to use, and on the sentence awarded by this court-martial. You will remain a member of the Armed Forces while in an appellate leave status and subject to military jurisdiction.

f. **Administrative Separation**. As a result of being found guilty, you may be processed for administrative discharge from the United States Navy or United States Marine Corps, as applicable. An administrative discharge could result in an Other-Than-Honorable characterization of service, unless otherwise limited in a plea agreement (as permitted by Service policy), even if part or all of the sentence, including a punitive discharge, is suspended for any reason.

Acknowledgment

By signing the document below, you acknowledge the following: (1) that prior to adjournment of your court-martial, you were provided with the above written advice; (2) that you have read and understand your post-trial and appellate rights; and (3) that you discussed your rights with your defense counsel prior to signing this form.

[redacted]

JOSHUA A. REHAK
Major
U.S. Marine Corps
Detailed Defense Counsel

JESSE T. BOPP
Corporal
U.S. Marine Corps

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APPELLATE AND POST-TRIAL RIGHTS AND POST-TRIAL ADMINISTRATIVE PROCESSING

Initial below where you want all post-trial documents and copies of the record of trial sent.

I specifically request that my copy of the recording of the court-martial proceedings pursuant to R.C.M. 1106 be delivered to:

JTB me._____ my counsel.

I specifically request that my copy of the victim(s) matters be delivered to:

JTB me._____ my counsel. _____ Not Applicable.

I specifically request that my copy of the CA's Action be delivered to:

JTB me._____ my counsel.

I specifically request that my copy of the Entry of Judgment be delivered to:

JTB me._____ my counsel.

I specifically request that my copy of the certified record of trial be delivered to:

JTB me._____ my counsel.

Contact information for the accused after the completion of the court-martial:

Name: Jesse Bopp

Address: [redacted]

Phone: [redacted]

Email: [redacted]

[redacted]

JOSHUA A. REHAK
Major
U.S. Marine Corps
Detailed Defense Counsel

JESSE T. BOPP
Corporal
U.S. Marine Corps

SPECIAL POWER OF ATTORNEY – APPELLATE PROCESS

I, Corporal Jesse Bopp, United States Marine Corps, having been convicted by General Court-Martial, on 7 January 2025, do hereby appoint my appellate defense counsel of record appointed under the provisions of Article 70, UCMJ, and R.C.M. 1202 my true and lawful attorney or attorneys to represent me before the U.S. Navy-Marine Corps Court of Criminal Appeals (NMCCA), the U.S. Court of Appeals for the Armed Forces (CAAF), and the Supreme Court of the United States.

1. If my case qualifies for an appeal under Article 66(b), UCMJ, I authorize my appellate attorney to file an appeal in the NMCCA pursuant to Article 66(b), UCMJ.

2. If my case is pending before the NMCCA or the CAAF, I authorize my attorney to file a petition for new trial under Article 73, UCMJ.

3. In the event the NMCCA affirms any part of my conviction, I authorize my appellate attorney to file a petition for grant of review in the CAAF under Article 67, UCMJ, or, when in his or her judgment he or she deems further review of my conviction unwarranted due to lack of meritorious grounds to be urged upon appeal, to waive my right to petition the CAAF.

4. In the event the CAAF affirms any part of my conviction, I authorize my appellate attorney to file a writ of certiorari to the U.S. Supreme Court under Article 67a, UCMJ, or, when in his or her judgment he or she deems further review of my conviction unwarranted due to lack of meritorious grounds to be urged on appeal, to waive my right to file a writ of certiorari to the U.S. Supreme Court.

GIVING AND GRANTING to my attorney the full power and authority to perform every act whatsoever required and necessary to be done to represent my interests, as fully to all intents and purposes as I might or could do if personally present. This power of attorney shall become effective immediately and remain in effect until until I lawfully revoke this power and authority.

IN WITNESS THEREOF, I have hereunto set my hand this 7th day of January 2025.

[redacted]

JESSE T. BOPP
Corporal
U.S. Marine Corps
Accused

Signed and delivered in the presence of:

[redacted]

JOSHUA A. REHAK
Major
U.S. Marine Corps
Detailed Defense Counsel

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INSTRUCTIONS FOR ASSEMBLING THE CERTIFIED RECORD OF TRIAL

Arrange and bind the record of trial with allied papers in the sequence indicated below. The court reporter is responsible for certifying the record of trial prior to transmittal for appellate review, in accordance with R.C.M. 1112 and JAG/CNLSCINST 5813.1G.

1. Pages 1 (Cover page) and 2 (Chronology Sheet) of DD Form 490 (enclosure 7).

2. Court reporter certification of Record of Trial (enclosure 8).

3. Military Judge verification of Record of Trial (enclosure 8).

4. DD Form 490 (pages 3-6 and any continuation pages if needed) (enclosure 7).

5. Completed Post-Trial Checklist from JAG/CNLSCINST 5814.1G (enclosure 2).

6. Completed Convening Authority's Action Checklist (enclosure 4).

7. Post-Trial Documents.

a. Certificates/Proof of Service of the Certified Record of Trial to the accused and victim, if applicable (enclosure 7).

b. Convening Authority's Action and Entry of Judgment (enclosure 6).

c. Any requests for copies of the court-martial record pursuant to R.C.M. 1106 or 1106A (attach written requests, and any certificates/proof of service, but do not attach the victim's post-trial rights advisement or DD Form 2704).

d. Matters submitted by the accused and/or victim under R.C.M. 1106 or 1106A, or any written waiver of the right to submit such matters. Include all responses to requests here as well.

e. Any deferment request and the action on it (including any request to waive automatic forfeitures under Article 58b).

f. Conditions of suspension and proof of service on probationer under R.C.M. 1107, if any.

g. All clemency recommendations by members or military judge, if any.

h. Statement of Trial Results (enclosure 1).

i. Crime Reporting Information.

j. Accused's request for appellate defense counsel, or waiver/withdrawal of appellate review under R.C.M. 1115, if applicable.

k. All transfer orders, confinement orders, and excess leave orders.

l. Briefs of counsel submitted after trial, if any.

8. Preliminary Hearing.

a. DD Form 457, Preliminary Hearing Officer's Report, pursuant to Article 32, if such hearing was conducted, followed by any other allied papers that accompanied the charges when referred for trial (including any matters submitted under R.C.M. 405(l), unless included elsewhere in the record of trial).*

b. Waiver of Article 32 Hearing (if applicable).

9. Pre-Trial Allied Papers.

a. Convening Order and all amending convening orders.

b. DD Form 458, Charge Sheet (unless included at the point of arraignment in the transcript).

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i. Any other information that could be used to identify a specific person other than the accused.

*If the report of preliminary hearing or record of trial contains exhibits, proceedings, or other materials ordered sealed by the preliminary hearing officer or military judge, counsel for the Government, the court reporter, or trial counsel shall cause such materials to be sealed to prevent unauthorized examination or disclosure, pursuant to R.C.M. 1113. Sealed material shall be properly marked, individually placed in separate envelopes with a copy of the preliminary hearing officer or military judge sealing order affixed to it, and inserted at the appropriate place in the record of trial. Do not duplicate sealed material to include it in any copy of the record of trial. Instead, insert a copy of the sealing order in lieu of any sealed material, in any copies of the record of trial.

DIVIDERS ARE NOT NECESSARY TO SEPARATE EACH SECTION. IF USED, THEY CAN BE PAPER RATHER THAN CARD STOCK. IF A PARTICULAR COMPONENT IS NOT APPLICABLE IN THE RECORD OF TRIAL, SUCH AS AN ARTICLE 32 HEARING, EXHIBITS NOT ADMITTED, POST-TRIAL PROCEEDINGS AND VACATION HEARINGS, DO NOT INSERT A DIVIDER OR PLACEHOLDER.

FRONT AND BACK COVER MUST BE ON BLUE CARDS STOCK AND LABELED WITH GUM LABELS.

Binding. Each volume of a record of trial should be no more than 1.5 inches thick and bound at the top with metal or plastic fasteners. **DO NOT** interlace or "piggy-back" prong fasteners to create an oversized volume. **DO NOT** place hole punches where it covers up the evidence or language in the transcript. When it becomes necessary to assemble the record of trial in more than one volume, the volumes will be numbered consecutively, on the front cover, as illustrated below:

Volume 1 of 4 (Pages 1-250)
Volume 2 of 4 (Pages 251-400)
Volume 3 of 4 (Pages 401-652)
Volume 4 of 4 (Pages 653-901 and Exhibits)

Make the first volume of a multi-volume record an inch thick or smaller to allow for inclusion of post-trial documents. Limit subsequent volumes to 1.5 inches, unless dividing them requires assembling an additional volume smaller than a half inch.

Label the upper right-hand corner or the Preparation and Certification of Record of Trial Form (enclosure (8)) to reflect which copy it is, i.e., "**ORIGINAL**," "**ACCUSED**," "**REVIEW**" etc.