

Volume

1

of Volumes

2

CERTIFIED RECORD OF TRIAL

(and accompanying papers)

of

Alvey
(Last Name)Douglas
(First Name)J.
MI[REDACTED]
(DoD ID No.)Capt/O-3
(Rank)7th ESB, 1st MLG
(Unit/Command Name)USMC
(Branch of Service)Camp Pendleton, California
(Location)

By

General Court-Martial (GCM)
(GCM, SPCM, or SCM)

COURT-MARTIAL

Convened by

Commanding General
(Title of Convening Authority)1st Marine Logistics Group
(Unit/Command of Convening Authority)

Tried at

Camp Pendleton, California
(Place or Places of Trial)

On

27 September 2023, 27 October 2023
(Date or Dates of Trial)

Companion and other cases

None.

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

This volume contains
Allied Documents

COURT REPORTER
CERTIFICATION OF RECORD OF TRIAL

I, GvSgt Sophia D. Taylor certify that this record of trial contains all of the items required under R.C.M. 1112(b) and (f), and the pleas, findings, and sentence are accurately reflected in the transcript accompanying the record of trial.

TAYLOR.SOPHIA.D
ENISE [REDACTED] Digitally signed by
SOPHIA.DENISE [REDACTED]
Date: 2024.01.22 11:27:07 -08'00'

(Court Reporter)

01/22/2024

(Date)

MILITARY JUDGE VERIFICATION OF
RECORD OF TRIAL AND ATTACHMENTS

This record of trial and transcript were received by the Western Judicial Circuit on 01/17/2024 and verified on 01/22/2024. I have reviewed the foregoing record of trial and accompanying transcript for completeness. I hereby verify that this record of trial contains all of the items required under R.C.M. 1112(f), and the pleas, findings, and sentence are accurately reflected in the transcript accompanying the record of trial.

WALSH.AN.TA
YLOR. [REDACTED]

Digitally signed by
WALSH.AN.TAYLOR [REDACTED]

Date: 2024.01.22 11:22:17 -08'00'

(Military Judge)

01/22/2024

(Date)

COURT REPORTER/TRANSCRIPTIONIST
CERTIFICATION OF TRANSCRIPT

I Blake W. Roberts certify that this written transcript is a true, accurate, and complete copy of the audio or other electronic recording of the court-martial proceeding in the case of U.S. v. Alvey, Douglas J., which was held at Camp Pendleton, CA on 09/27/2023.

ROBERTS.BLAKE.W
ELDON

Digitally signed by
ROBERTS.BLAKE.WELDON
02713
2024.01.04 13:04:42 -08'00'

01/04/2024

(Court Reporter)(Transcriptionist)

(Date)

UNITED STATES

v.

Douglas J. Alvey
Captain
[REDACTED]
U.S. Marine Corps

AFFIDAVIT
Audio & Exhibits Service on the Detailed Defense
Counsel

Encl: (1) Screenshot of DOD Safe on 25 January 2024
(2) Email record of A&E service to the Detailed Defense Counsel on 25 January 2024

1. At trial and in the Appellate Rights Advisement, the accused, in the subject case, requested that a copy of the audio and exhibits (A&E) be served upon his detailed defense counsel. For service of post-trial documents, the detailed defense counsel provided the email address katherine.malcolm@usmc.mil. The detailed defense counsel was served a copy of the A&E on 25 January 2024 (Enclosure 1).

2. After being served, the detailed defense counsel did not respond or return the A&E receipt (Enclosure 2).

**I SWEAR OR AFFIRM THAT THE ABOVE REPRESENTATIONS ARE TRUE AND
CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.**

[REDACTED]
✓ P. R. BLACKSTOCK
Captain
U.S. Marine Corps
Regional Review Officer



- Home
- Drop-Off
- Request a Drop-Off
- Pick-up
- Outbox
- Help
- Logout

Drop-Off Details (Claim ID:
3ZKkrCNNPTekMGxM)

Print Details

This Drop-off has already expired and been removed from DoD SAFE. It cannot be picked up or resent.

Sender:

MOUA.JOHNNY <johnny.moua@usmc.mil> USMC

Submitted:

2024-01-25 18:05:34 UTC

Picked Up:

Yes

Comments:

Good morning, ma'am.

Attached are the audio, exhibits, and ROTICO Alvey, D. J. Please look for the follow up email containing the encryption code.

V/R,

LCpl Moua

Completed:

2024-01-25 18:07:32 UTC

Expired On:

2024-02-02 06:41:52 UTC

Claim Passcode:

jzudsJaQWqpmPBkg

Deleted By:

System

Recipients

Show 10 entries

Search:

Recipient

<katherine.malcolm@usmc.mil>

Showing 1 to 1 of 1 entries

<< < 1 > >>

Files

Show 10 entries

Search:

Filename	Description	File Size	SHA-256 Checksum
Alvey, Douglas J. - Vol 1 of 2_Redacted.pdf		13.1 MB	FC985DEA4C6FDFB53D2EB55725924453445EA34C666B625B21AD8AE54DDA7E2A
Alvey, Douglas J. - Vol 2 of 2_Redacted.pdf		16.1 MB	A323B3B8AEAF26C156CFDC70265A84E048853E2BFB05C94FF6249B98963D2E3
Audio & Exhibits.zip		231.1 MB	BD156F86D9B457CCF32A5704E352BD61BF7E3EE60A45172A91FCF162F363A76F

Showing 1 to 3 of 3 entries

<< < 1 > >>

Pickup History

Show 10 entries

Search:

Picked Up On	From Remote Address	By Recipient	Recipient Code
2024-01-26 02:39 UTC	NOT DISPLAYED	katherine.malcolm@usmc.mil	3Nv9sU

Showing 1 to 1 of 1 entries

<< < 1 > >>

This information system is approved for CUI and PII/PHI data

[Security](#) [About DoD SAFE](#) [Accessibility](#) [New Functionality Request](#)

WARNING: This Department of Defense internal computer system is subject to monitoring at all times.

Unauthorized access is prohibited by Federal Law 99-474. The Computer Fraud and Abuse Act of 1986. Users are advised to read and agree to the Security Notice.

Server: WEB02 -- Version: 2.0.4

Moua LCpl Johnny

From: Moua LCpl Johnny
Sent: Thursday, January 25, 2024 10:08 AM
To: Malcolm Capt Katherine E
Cc: LSSS-W Regional Review
Subject: Audio, Exhibits, and Record of Trial ICO Capt Alvey, D. J.
Attachments: Audio and Exhibits Receipt - DC.rtf; ROT Receipt - DC.rtf
Signed By: johnny.moua@usmc.mil

Good morning, ma'am.

I have dropped off the audio, exhibits, and ROT ICO Alvey, D. J. via DOD Safe. Please sign and return the above attached receipts at your earliest convenience.

The encryption code for pick up is:

Review2024

Very Respectfully,

Johnny Moua
Lance Corporal, U.S. Marine Corps
Regional Review, Clerk
Camp Pendleton, CA
Office: (760) 725-8770
OMB: lssswregionalreview@usmc.mil

UNITED STATES

v.

Douglas J. Alvey
Captain
[REDACTED]
U.S. Marine Corps

AFFIDAVIT
Record of Trial Service on the Detailed Defense
Counsel

Encl: (1) Screenshot of DoD Safe on 25 January 2024
(2) Email record of ROT service to the Detailed Defense Counsel on 25 January 2024

1. At trial and in the Appellate Rights Advisement, the accused, in the subject case, requested that a copy of the certified Record of Trial (ROT) be served upon his detailed defense counsel. For service of post-trial documents, the detailed defense counsel provided the email address katherine.malcolm@usmc.mil. The detailed defense counsel was served a copy of the ROT on 25 January 2024 (Enclosure 1).
2. After being served, the detailed defense counsel did not respond or return the ROT receipt (Enclosure 2).

**I SWEAR OR AFFIRM THAT THE ABOVE REPRESENTATIONS ARE TRUE AND
CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.**

[REDACTED]
P. R. BLACKSTOCK
Captain
U.S. Marine Corps
Regional Review Officer



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Print Details

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MOUA.JOHNNY <johnny.moua@usmc.mil> USMC

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Alvey, Douglas J. - Vol 2 of 2_Redacted.pdf		16.1 MB	A323B3B8AEAF26C156CFDC70265A84E048853E2BFBC05C94FF6249B98963D2E3
Audio & Exhibits.zip		231.1 MB	B0156F86D9B457CCF32A5704E352BD61BF7E3EE60A45172A91FCF162F363A76F

Showing 1 to 3 of 3 entries

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Showing 1 to 1 of 1 entries

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WARNING: The Department of Defense internet system is subject to monitoring and limits

on internet access is provided by DoD, June 2017. The Computer Fraud and Abuse Act of 1986. Users are advised to read and agree to the Security Notice.

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Subject: Audio, Exhibits, and Record of Trial ICO Capt Alvey, D. J.
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Review2024

Very Respectfully,

Johnny Moua
Lance Corporal, U.S. Marine Corps
Regional Review, Clerk
Camp Pendleton, CA
Office: (760) 725-8770
OMB: lssswregionalreview@usmc.mil

STATEMENT OF TRIAL RESULTS

SECTION A - ADMINISTRATIVE

1. NAME OF ACCUSED (last, first, MI)	2. BRANCH	3. PAYGRADE	4. DoD ID NUMBER
ALVEY, Douglas, J.	Marine Corps	O-3	
5. CONVENING COMMAND	6. TYPE OF COURT-MARTIAL	7. COMPOSITION	8. DATE SENTENCE ADJUDGED
1st Marine Logistics Group	General	Judge Alone - MJA16	Oct 27, 2023

SECTION B - FINDINGS

SEE FINDINGS PAGE

SECTION C - TOTAL ADJUDGED SENTENCE

9. DISCHARGE OR DISMISSAL	10. CONFINEMENT	11. FORFEITURES	12. FINES	13. FINE PENALTY
Dismissal	9 months	Not adjudged.	None.	N/A
14. REDUCTION	15. DEATH	16. REPRIMAND	17. HARD LABOR	18. RESTRICTION
N/A	Yes ☐ No ☒	Yes ☐ No ☒	Yes ☐ No ☒	Yes ☐ No ☒
19. HARD LABOR PERIOD				
N/A				
20. PERIOD AND LIMITS OF RESTRICTION				
N/A				

SECTION D - CONFINEMENT CREDIT

21. DAYS OF PRETRIAL CONFINEMENT CREDIT	22. DAYS OF JUDICIALLY ORDERED CREDIT	23. TOTAL DAYS OF CREDIT
170	0	170 days

SECTION E - PLEA AGREEMENT OR PRE-TRIAL AGREEMENT

24. LIMITATIONS ON PUNISHMENT CONTAINED IN THE PLEA AGREEMENT OR PRE-TRIAL AGREEMENT

A dismissal shall be adjudged. Fines and forfeitures shall not be adjudged. Confinement will be between 6 to 9 months. No other lawful punishments shall be adjudged.

SECTION F - SUSPENSION OR CLEMENCY RECOMMENDATION

25. DID THE MILITARY JUDGE RECOMMEND SUSPENSION OF THE SENTENCE OR CLEMENCY?	Yes ☐ No ☒	26. PORTION TO WHICH IT APPLIES	27. RECOMMENDED DURATION
28. FACTS SUPPORTING THE SUSPENSION OR CLEMENCY RECOMMENDATION			

SECTION G - NOTIFICATIONS

29. Is sex offender registration required in accordance with appendix 4 to enclosure 2 of DoDI 1325.07?	Yes ☒ No ☐
30. Is DNA collection and submission required in accordance with 10 U.S.C. § 1565 and DoDI 5505.14?	Yes ☒ No ☐
31. Did this case involve a crime of domestic violence as defined in enclosure 2 of DoDI 6400.06?	Yes ☐ No ☒
32. Does this case trigger a firearm possession prohibition in accordance with 18 U.S.C. § 922?	Yes ☒ No ☐

SECTION H - NOTES AND SIGNATURE

33. NAME OF JUDGE (last, first, MI)	34. BRANCH	35. PAYGRADE	36. DATE SIGNED	38. JUDGE'S SIGNATURE
WALSH, Aran T.	Marine Corps	O-5	Oct 27, 2023	WALSH.AR AN.TAYLOR Digitally signed by WALSH.ARAN.TAYLOR. Date: 2023.10.27 16:04:14 -07'00'
37. NOTES				

STATEMENT OF TRIAL RESULTS - FINDINGS

SECTION I - LIST OF FINDINGS

CHARGE	ARTICLE	SPECIFICATION	PLEA	FINDING	ORDER OR REGULATION VIOLATED	LIO OR INCHOATE OFFENSE ARTICLE	DIBRS
Charge I	80	Specification:	Guilty	Guilty			
		Offense description	Attempted 120b - sexual abuse of a child involving indecent communications				
Charge II	120b	Specification:	Not Guilty	W/D			
		Offense description	Sexual abuse of a child not involving sexual contact				
		Withdrawn and Dismissed	Withdrawn & dismissed w/o prejudice to ripen into prejudice upon completion of appellate review where the findings and sentence have been upheld.				
Charge III	133	Specification 1:	Guilty	Guilty			
		Offense description	Conduct unbecoming of an officer and a gentleman.				
		Specification 2:	Guilty	Guilty			
		Offense description	Conduct unbecoming of an officer and a gentleman.				
		Specification 3:	Guilty	Guilty			
		Offense description	Conduct unbecoming of an officer and a gentleman.				
		Specification 4:	Not Guilty	W/D			
		Offense description	Conduct unbecoming of an officer and a gentleman.				
		Withdrawn and Dismissed	Withdrawn & dismissed w/o prejudice to ripen into prejudice upon completion of appellate review where the findings and sentence have been upheld.				

MILITARY JUDGE ALONE SEGMENTED SENTENCE					
SECTION J - SENTENCING					
CHARGE	SPECIFICATION	CONFINEMENT	CONCURRENT WITH	CONSECUTIVE WITH	FINE
Charge I	Specification:	9 Months	all others	N/A	N/A
Charge II	Specification:	N/A	N/A	N/A	N/A
Charge III	Specification 1:	9 Months	all others	N/A	N/A
	Specification 2:	9 Months	all others	N/A	N/A
	Specification 3:	6 Months	all others	N/A	N/A
	Specification 4:	N/A	N/A	N/A	N/A

POST-TRIAL ACTION

SECTION A - STAFF JUDGE ADVOCATE REVIEW

1. NAME OF ACCUSED (LAST, FIRST, MI) Alvey, Douglas, J.		2. PAYGRADE/RANK O3	3. DoD ID NUMBER [REDACTED]
4. UNIT OR ORGANIZATION 7th ESB, 1st MLG		5. CURRENT ENLISTMENT 23 Apr 2013	6. TERM Indefinite
7. CONVENING AUTHORITY (UNIT/ORGANIZATION) 1ST MLG	8. COURT-MARTIAL TYPE General	9. COMPOSITION Judge Alone - MJA16	10. DATE SENTENCE ADJUDGED 10/27/2023

Post-Trial Matters to Consider

11. Has the accused made a request for deferment of reduction in grade?	☐ Yes	☒ No
12. Has the accused made a request for deferment of confinement?	☐ Yes	☒ No
13. Has the accused made a request for deferment of adjudged forfeitures?	☐ Yes	☒ No
14. Has the accused made a request for deferment of automatic forfeitures?	☒ Yes	☐ No
15. Has the accused made a request for waiver of automatic forfeitures?	☒ Yes	☐ No
16. Has the accused submitted necessary information for transferring forfeitures for benefit of dependents?	☒ Yes	☐ No
17. Has the accused submitted matters for convening authority's review?	☐ Yes	☒ No
18. Has the victim(s) submitted matters for convening authority's review?	☐ Yes	☒ No
19. Has the accused submitted any rebuttal matters?	☐ Yes	☒ No
20. Has the military judge made a suspension or clemency recommendation?	☐ Yes	☒ No
21. Has the trial counsel made a recommendation to suspend any part of the sentence?	☐ Yes	☒ No
22. Did the court-martial sentence the accused to a reprimand issued by the convening authority?	☐ Yes	☒ No

23. Summary of Clemency/Deferment Requested by Accused and/or Crime Victim, if applicable.

- SJA consulted with the Convening Authority and explained his clemency authority under Art. 60, UCMJ.

- The accused did not submit matters pursuant to R.C.M. 1106.

- Pursuant to the plea agreement and Art. 58b(b), UCMJ, the accused has requested that the Convening Authority defer and waive the remainder of pay and allowances of the accused's enlistment (in the amount of \$11,812.78 per month) to be sent to the accused's spouse during the entire period of deferment and not to exceed six (6) months from the date of the Entry of Judgment.

24. Convening Authority Name/Title Brigadier General A. M. NIEBEL / Commanding General	25. SJA Name Lieutenant Colonel W. SHEW
26. SJA signature Digitally signed by SHEW.WAYNE. Date: 2024.01.08 15:10:59 -08'00'	27. Date Jan 8, 2024

Convening Authority's Action -

Alvey, Douglas, J.

SECTION B - CONVENING AUTHORITY ACTION

28. Having reviewed all matters submitted by the accused and the victim(s) pursuant to R.C.M. 1106/1106A, and after being advised by the staff judge advocate or legal officer, I take the following action in this case: [If deferring or waiving any punishment, indicate the date the deferment/waiver will end. Attach signed reprimand if applicable. Indicate what action, if any, taken on suspension recommendation(s) or clemency recommendations from the judge.]

The accused did not submit matters pursuant to R.C.M. 1106.

Pursuant to the plea agreement, on 18 December 2023, I deferred all of the automatic forfeitures from 14 days from the date the sentence was adjudged until the date the entry of judgment is signed by the military judge. The accused did not establish the required allotment until 18 December 2023.

All of the automatic forfeitures are waived for a period of six months or expiration of term of service, whichever is sooner, with the waiver commencing on the date the entry of judgment is signed by the military judge. The total pay and allowances is directed to be paid to Ms. Marie A. Alvey, spouse of the accused, for the benefit of herself and the accused's dependent children.

The sentence is approved as adjudged.

29. Convening authority's written explanation of the reasons for taking action on offenses with mandatory minimum punishments or offenses for which the maximum sentence to confinement that may be adjudged exceeds two years, or offenses where the adjudged sentence includes a punitive discharge (Dismissal, DD, BCD) or confinement for more than six months, or a violation of Art. 120(a) or 120(b) or 120b:

In reaching my decision, I have considered the nature of the accused's offenses, the sentence adjudged, the effect on good order and discipline, and the accused's character, mental condition, family situation, and service record. I have determined deferral and waiver of automatic forfeitures is necessary to prevent dire financial distress by the accused's spouse and children. See United States v. Riboni, No. 202100193, 2022 CCA LEXIS 42 (N-M. Ct. Crim. App., Jan. 20, 2022).

30. Convening Authority's signature



31. Date

10 Jan 24

32. Date convening authority action was forwarded to PTPD or Review Shop.

JAN 11 2024

POST-TRIAL ACTION

SECTION A - STAFF JUDGE ADVOCATE REVIEW

1. NAME OF ACCUSED (LAST, FIRST, MI) Alvey, Douglas, J.		2. PAYGRADE/RANK O3	3. DoD ID NUMBER [REDACTED]
4. UNIT OR ORGANIZATION 7th ESB, 1st MLG		5. CURRENT ENLISTMENT 23 Apr 2013	6. TERM Indefinite
7. CONVENING AUTHORITY (UNIT/ORGANIZATION) 1ST MLG	8. COURT-MARTIAL TYPE General	9. COMPOSITION Judge Alone - MJA16	10. DATE SENTENCE ADJUDGED 10/27/2023

Post-Trial Matters to Consider

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19. Has the accused submitted any rebuttal matters?	☐ Yes	☒ No
20. Has the military judge made a suspension or clemency recommendation?	☐ Yes	☒ No
21. Has the trial counsel made a recommendation to suspend any part of the sentence?	☐ Yes	☒ No
22. Did the court-martial sentence the accused to a reprimand issued by the convening authority?	☐ Yes	☒ No

23. Summary of Clemency/Deferment Requested by Accused and/or Crime Victim, if applicable.

- SJA consulted with the Convening Authority and explained his clemency authority under Art. 60, UCMJ.

- The accused did not submit matters pursuant to R.C.M. 1106.

- Pursuant to the plea agreement and Art. 58b(b), UCMJ, the accused has requested that the Convening Authority defer and waive the remainder of pay and allowances of the accused's enlistment (in the amount of \$11,812.78 per month) to be sent to the accused's spouse during the entire period of deferment and not to exceed six (6) months from the date of the Entry of Judgment.

24. Convening Authority Name/Title Brigadier General A. M. NIEBEL / Commanding General	25. SJA Name Lieutenant Colonel W. SHEW
26. SJA signature Digitally signed by SHEW.WAYNE. Date: 2024.01.08 15:10:59 -08'00'	27. Date Jan 8, 2024

Convening Authority's Action -

Alvey, Douglas, J.

SECTION B - CONVENING AUTHORITY ACTION

28. Having reviewed all matters submitted by the accused and the victim(s) pursuant to R.C.M. 1106/1106A, and after being advised by the staff judge advocate or legal officer, I take the following action in this case: [If deferring or waiving any punishment, indicate the date the deferment/waiver will end. Attach signed reprimand if applicable. Indicate what action, if any, taken on suspension recommendation(s) or clemency recommendations from the judge.]

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26. SJA signature Digitally signed by SHEW.WAYNE. [REDACTED] Date: 2024.01.08 15:10:59 -08'00'	27. Date Jan 8, 2024

Convening Authority's Action -

Alvey, Douglas, J.

SECTION B - CONVENING AUTHORITY ACTION

28. Having reviewed all matters submitted by the accused and the victim(s) pursuant to R.C.M. 1106/1106A, and after being advised by the staff judge advocate or legal officer, I take the following action in this case: [If deferring or waiving any punishment, indicate the date the deferment/waiver will end. Attach signed reprimand if applicable. Indicate what action, if any, taken on suspension recommendation(s) or clemency recommendations from the judge.]

The accused did not submit matters pursuant to R.C.M. 1106.

Pursuant to the plea agreement, on 18 December 2023, I deferred all of the automatic forfeitures from 14 days from the date the sentence was adjudged until the date the entry of judgment is signed by the military judge. The accused did not establish the required allotment until 18 December 2023.

All of the automatic forfeitures are waived for a period of six months or expiration of term of service, whichever is sooner, with the waiver commencing on the date the entry of judgment is signed by the military judge. The total pay and allowances is directed to be paid to Ms. Marie A. Alvey, spouse of the accused, for the benefit of herself and the accused's dependent children.

The sentence is approved as adjudged.

29. Convening authority's written explanation of the reasons for taking action on offenses with mandatory minimum punishments or offenses for which the maximum sentence to confinement that may be adjudged exceeds two years, or offenses where the adjudged sentence includes a punitive discharge (Dismissal, DD, BCD) or confinement for more than six months, or a violation of Art. 120(a) or 120(b) or 120b:

In reaching my decision, I have considered the nature of the accused's offenses, the sentence adjudged, the effect on good order and discipline, and the accused's character, mental condition, family situation, and service record. I have determined deferral and waiver of automatic forfeitures is necessary to prevent dire financial distress by the accused's spouse and children. See United States v. Riboni, No. 202100193, 2022 CCA LEXIS 42 (N-M. Ct. Crim. App., Jan. 20, 2022).

30. Convening Authority's signature

31. Date

10 Jan 24

32. Date convening authority action was forwarded to PTPD or Review Shop.

JAN 11 2024

POST-TRIAL ACTION

SECTION A - STAFF JUDGE ADVOCATE REVIEW

1. NAME OF ACCUSED (LAST, FIRST, MI) Alvey, Douglas, J.		2. PAYGRADE/RANK O3	3. DoD ID NUMBER [REDACTED]
4. UNIT OR ORGANIZATION 7th ESB, 1st MLG		5. CURRENT ENLISTMENT 23 Apr 2013	6. TERM Indefinite
7. CONVENING AUTHORITY (UNIT/ORGANIZATION) 1ST MLG	8. COURT-MARTIAL TYPE General	9. COMPOSITION Judge Alone - MJA16	10. DATE SENTENCE ADJUDGED 10/27/2023

Post-Trial Matters to Consider

11. Has the accused made a request for deferment of reduction in grade?	☐ Yes	☒ No
12. Has the accused made a request for deferment of confinement?	☐ Yes	☒ No
13. Has the accused made a request for deferment of adjudged forfeitures?	☐ Yes	☒ No
14. Has the accused made a request for deferment of automatic forfeitures?	☒ Yes	☐ No
15. Has the accused made a request for waiver of automatic forfeitures?	☒ Yes	☐ No
16. Has the accused submitted necessary information for transferring forfeitures for benefit of dependents?	☒ Yes	☐ No
17. Has the accused submitted matters for convening authority's review?	☐ Yes	☒ No
18. Has the victim(s) submitted matters for convening authority's review?	☐ Yes	☒ No
19. Has the accused submitted any rebuttal matters?	☐ Yes	☒ No
20. Has the military judge made a suspension or clemency recommendation?	☐ Yes	☒ No
21. Has the trial counsel made a recommendation to suspend any part of the sentence?	☐ Yes	☒ No
22. Did the court-martial sentence the accused to a reprimand issued by the convening authority?	☐ Yes	☒ No

23. Summary of Clemency/Deferment Requested by Accused and/or Crime Victim, if applicable.

- SJA consulted with the Convening Authority and explained his clemency authority under Art. 60, UCMJ.

- The accused did not submit matters pursuant to R.C.M. 1106.

- Pursuant to the plea agreement and Art. 58b(b), UCMJ, the accused has requested that the Convening Authority defer and waive the remainder of pay and allowances of the accused's enlistment (in the amount of \$11,812.78 per month) to be sent to the accused's spouse during the entire period of deferment and not to exceed six (6) months from the date of the Entry of Judgment.

24. Convening Authority Name/Title Brigadier General A. M. NIEBEL / Commanding General	25. SJA Name Lieutenant Colonel W. SHEW
26. SJA signature Digitally signed by SHEW.WAYNE. Date: 2024.01.08 15:10:59 -08'00'	27. Date Jan 8, 2024

Convening Authority's Action -

Alvey, Douglas, J.

SECTION B - CONVENING AUTHORITY ACTION

28. Having reviewed all matters submitted by the accused and the victim(s) pursuant to R.C.M. 1106/1106A, and after being advised by the staff judge advocate or legal officer, I take the following action in this case: [If deferring or waiving any punishment, indicate the date the deferment/waiver will end. Attach signed reprimand if applicable. Indicate what action, if any, taken on suspension recommendation(s) or clemency recommendations from the judge.]

The accused did not submit matters pursuant to R.C.M. 1106.

Pursuant to the plea agreement, on 18 December 2023, I deferred all of the automatic forfeitures from 14 days from the date the sentence was adjudged until the date the entry of judgment is signed by the military judge. The accused did not establish the required allotment until 18 December 2023.

All of the automatic forfeitures are waived for a period of six months or expiration of term of service, whichever is sooner, with the waiver commencing on the date the entry of judgment is signed by the military judge. The total pay and allowances is directed to be paid to Ms. Marie A. Alvey, spouse of the accused, for the benefit of herself and the accused's dependent children.

The sentence is approved as adjudged.

29. Convening authority's written explanation of the reasons for taking action on offenses with mandatory minimum punishments or offenses for which the maximum sentence to confinement that may be adjudged exceeds two years, or offenses where the adjudged sentence includes a punitive discharge (Dismissal, DD, BCD) or confinement for more than six months, or a violation of Art. 120(a) or 120(b) or 120b:

In reaching my decision, I have considered the nature of the accused's offenses, the sentence adjudged, the effect on good order and discipline, and the accused's character, mental condition, family situation, and service record. I have determined deferral and waiver of automatic forfeitures is necessary to prevent dire financial distress by the accused's spouse and children. See United States v. Riboni, No. 202100193, 2022 CCA LEXIS 42 (N-M. Ct. Crim. App., Jan. 20, 2022).

30. Convening Authority's signature

31. Date

10 Jan 24

32. Date convening authority action was forwarded to PTPD or Review Shop.

JAN 11 2024

ENTRY OF JUDGMENT

SECTION A - ADMINISTRATIVE

1. NAME OF ACCUSED (LAST, FIRST, MI) ALVEY, Douglas, J.		2. PAYGRADE/RANK O3	3. DoD ID NUMBER [REDACTED]
4. UNIT OR ORGANIZATION 7th ESB, 1st MLG		5. CURRENT ENLISTMENT 23-Aug-2013	6. TERM Indefinite
7. CONVENING AUTHORITY (UNIT/ORGANIZATION) 1st MLG	8. COURT-MARTIAL TYPE General	9. COMPOSITION Judge Alone - MJA16	10. DATE COURT-MARTIAL ADJOURNED 27-Oct-2023

SECTION B - ENTRY OF JUDGMENT

****MUST be signed by the Military Judge (or Circuit Military Judge) within 20 days of receipt****

11. Findings of each charge and specification referred to trial. [Summary of each charge and specification (include at a minimum the gravamen of the offense), the plea of the accused, the findings or other disposition accounting for any exceptions and substitutions, any modifications made by the convening authority or any post-trial ruling, order, or other determination by the military judge. R.C.M. 1111(b)(1)]

Charge I: Violation of the UCMJ, Article 80

Plea: Guilty Finding: Guilty

Specification: Attempted 120b - sexual abuse of a child involving indecent communications

Plea: Guilty Finding: Guilty

Charge II: Violation of the UCMJ, Article 120b

Plea: Not Guilty Finding: W/D*

Specification: Sexual abuse of a child not involving sexual contact

Plea: Not Guilty Finding: W/D*

Charge III: Violation of the UCMJ, Article 133b

Plea: Guilty Finding: Guilty

Specification 1: Conduct unbecoming of an officer and a gentleman

Plea: Guilty Finding: Guilty

Specification 2: Conduct unbecoming of an officer and a gentleman

Plea: Guilty Finding: Guilty

Specification 3: Conduct unbecoming of an officer and a gentleman

Plea: Guilty Finding: Guilty

Specification 4: Conduct unbecoming of an officer and a gentleman

Plea: Not Guilty Finding: W/D*

* After the announcement of the sentence by the military judge, the withdrawn charges and specifications will be dismissed without prejudice to ripen into prejudice upon completion of appellate review where the findings and sentence have been upheld.

12. Sentence to be Entered. Account for any modifications made by reason of any post-trial action by the convening authority (including any action taken based on a suspension recommendation), confinement credit, or any post-trial rule, order, or other determination by the military judge. R.C.M. 1111(b)(2). If the sentence was determined by a military judge, ensure confinement and fines are segmented as well as if a sentence shall run concurrently or consecutively.

The Military Judge adjudged the following sentence:

- Dismissal, and confinement adjudged as follows:

Charge I: Violation of the UCMJ, Article 80

Specification: 9 months of confinement

Charge III: Violation of the UCMJ, Article 133

Specification 1: 9 months of confinement

Specification 2: 9 months of confinement

Specification 3: 6 months of confinement

Confinement will run concurrently.

Total confinement time to be served is 9 months.

Plea Agreement:

- A dismissal will be adjudged

- The minimum confinement to be adjudged for all offenses is confinement for 6 months, and the maximum confinement to be adjudged for all offenses is confinement for 9 months.

- Forfeitures will not be adjudged

- Fines will not be adjudged

- Reduction of rank is not applicable

- No other lawful punishments will be adjudged

Convening Authority:

Pursuant to the plea agreement and Art. 58b(b), UCMJ, the accused requested that the Convening Authority defer and waive the remainder of pay and allowances of the accused's enlistment (in the amount of \$11,812.78 per month) to be sent to the accused's spouse during the entire period of deferment and not to exceed six (6) months from the date of the Entry of Judgment. The Convening Authority approved deferment and waiver of automatic forfeitures.

Pretrial confinement credit: 170 days

13. Deferment and Waiver. Include the nature of the request, the CA's Action, the effective date of the deferment, and date the deferment ended. For waivers, include the effective date and the length of the waiver. RCM 1111(b)(3)

Pursuant to the plea agreement and Art. 58b(b), UCMJ, the accused requested that the Convening Authority defer and waive the remainder of pay and allowances of the accused's enlistment (in the amount of \$11,812.78 per month) to be sent to the accused's spouse during the entire period of deferment and not to exceed six (6) months from the date of the Entry of Judgment.

On 18 December 2023, the Convening Authority deferred all of the automatic forfeitures from 14 days from the date the sentence was adjudged until the date the entry of judgment is signed by the military judge.

All of the automatic forfeitures are waived for a period of six months or expiration of term of service, whichever is sooner, with the waiver commencing on the date the entry of judgment is signed by the military judge.

14. Action convening authority took on any suspension recommendation from the military judge:

N/A. The Military Judge did not recommend suspension.

15. Judge's signature:

WALSH.ARAN.TAY
LOR

Digitally signed by
WALSH.ARAN.TAYLOR.
Date: 2024.01.22 11:19:49 -08'00'

16. Date judgment entered:

Jan 22, 2024

17. In accordance with RCM 1111(c)(1), the military judge who entered a judgment may modify the judgment to correct computational or clerical errors within 14 days after the judgment was initially entered. Include any modifications here and resign the Entry of Judgment.

18. Judge's signature:

19. Date judgment entered:

ENTRY OF JUDGMENT

SECTION A - ADMINISTRATIVE

1. NAME OF ACCUSED (LAST, FIRST, MI) ALVEY, Douglas, J.		2. PAYGRADE/RANK O3	3. DoD ID NUMBER [REDACTED]
4. UNIT OR ORGANIZATION 7th ESB, 1st MLG		5. CURRENT ENLISTMENT 23-Aug-2013	6. TERM Indefinite
7. CONVENING AUTHORITY (UNIT/ORGANIZATION) 1st MLG	8. COURT-MARTIAL TYPE General	9. COMPOSITION Judge Alone - MJA16	10. DATE COURT-MARTIAL ADJOURNED 27-Oct-2023

SECTION B - ENTRY OF JUDGMENT

****MUST be signed by the Military Judge (or Circuit Military Judge) within 20 days of receipt****

11. Findings of each charge and specification referred to trial. [Summary of each charge and specification (include at a minimum the gravamen of the offense), the plea of the accused, the findings or other disposition accounting for any exceptions and substitutions, any modifications made by the convening authority or any post-trial ruling, order, or other determination by the military judge. R.C.M. 1111(b)(1)]

Charge I: Violation of the UCMJ, Article 80

Plea: Guilty Finding: Guilty

Specification: Attempted 120b - sexual abuse of a child involving indecent communications

Plea: Guilty Finding: Guilty

Charge II: Violation of the UCMJ, Article 120b

Plea: Not Guilty Finding: W/D*

Specification: Sexual abuse of a child not involving sexual contact

Plea: Not Guilty Finding: W/D*

Charge III: Violation of the UCMJ, Article 133b

Plea: Guilty Finding: Guilty

Specification 1: Conduct unbecoming of an officer and a gentleman

Plea: Guilty Finding: Guilty

Specification 2: Conduct unbecoming of an officer and a gentleman

Plea: Guilty Finding: Guilty

Specification 3: Conduct unbecoming of an officer and a gentleman

Plea: Guilty Finding: Guilty

Specification 4: Conduct unbecoming of an officer and a gentleman

Plea: Not Guilty Finding: W/D*

* After the announcement of the sentence by the military judge, the withdrawn charges and specifications will be dismissed without prejudice to ripen into prejudice upon completion of appellate review where the findings and sentence have been upheld.

12. Sentence to be Entered. Account for any modifications made by reason of any post-trial action by the convening authority (including any action taken based on a suspension recommendation), confinement credit, or any post-trial rule, order, or other determination by the military judge. R.C.M. 1111(b)(2). If the sentence was determined by a military judge, ensure confinement and fines are segmented as well as if a sentence shall run concurrently or consecutively.

The Military Judge adjudged the following sentence:

- Dismissal, and confinement adjudged as follows:

Charge I: Violation of the UCMJ, Article 80

Specification: 9 months of confinement

Charge III: Violation of the UCMJ, Article 133

Specification 1: 9 months of confinement

Specification 2: 9 months of confinement

Specification 3: 6 months of confinement

Confinement will run concurrently.

Total confinement time to be served is 9 months.

Plea Agreement:

- A dismissal will be adjudged

- The minimum confinement to be adjudged for all offenses is confinement for 6 months, and the maximum confinement to be adjudged for all offenses is confinement for 9 months.

- Forfeitures will not be adjudged

- Fines will not be adjudged

- Reduction of rank is not applicable

- No other lawful punishments will be adjudged

Convening Authority:

Pursuant to the plea agreement and Art. 58b(b), UCMJ, the accused requested that the Convening Authority defer and waive the remainder of pay and allowances of the accused's enlistment (in the amount of \$11,812.78 per month) to be sent to the accused's spouse during the entire period of deferment and not to exceed six (6) months from the date of the Entry of Judgment. The Convening Authority approved deferment and waiver of automatic forfeitures.

Pretrial confinement credit: 170 days

13. Deferment and Waiver. Include the nature of the request, the CA's Action, the effective date of the deferment, and date the deferment ended. For waivers, include the effective date and the length of the waiver. RCM 1111(b)(3)

Pursuant to the plea agreement and Art. 58b(b), UCMJ, the accused requested that the Convening Authority defer and waive the remainder of pay and allowances of the accused's enlistment (in the amount of \$11,812.78 per month) to be sent to the accused's spouse during the entire period of deferment and not to exceed six (6) months from the date of the Entry of Judgment.

On 18 December 2023, the Convening Authority deferred all of the automatic forfeitures from 14 days from the date the sentence was adjudged until the date the entry of judgment is signed by the military judge.

All of the automatic forfeitures are waived for a period of six months or expiration of term of service, whichever is sooner, with the waiver commencing on the date the entry of judgment is signed by the military judge.

14. Action convening authority took on any suspension recommendation from the military judge:

N/A. The Military Judge did not recommend suspension.

15. Judge's signature:

WALSH.ALAN.TAY

Digitally signed by
WALSH.ALAN.TAYLOR
Date: 2024.01.22 11:19:49 -08'00'

LOR

16. Date judgment entered:

Jan 22, 2024

17. In accordance with RCM 1111(c)(1), the military judge who entered a judgment may modify the judgment to correct computational or clerical errors within 14 days after the judgment was initially entered. Include any modifications here and resign the Entry of Judgment.

18. Judge's signature:

19. Date judgment entered:

ENTRY OF JUDGMENT

SECTION A - ADMINISTRATIVE

1. NAME OF ACCUSED (LAST, FIRST, MI) ALVEY, Douglas, J.		2. PAYGRADE/RANK O3	3. DoD ID NUMBER [REDACTED]
4. UNIT OR ORGANIZATION 7th ESB, 1st MLG		5. CURRENT ENLISTMENT 23-Aug-2013	6. TERM Indefinite
7. CONVENING AUTHORITY (UNIT/ORGANIZATION) 1st MLG	8. COURT-MARTIAL TYPE General	9. COMPOSITION Judge Alone - MJA16	10. DATE COURT-MARTIAL ADJOURNED 27-Oct-2023

SECTION B - ENTRY OF JUDGMENT

****MUST be signed by the Military Judge (or Circuit Military Judge) within 20 days of receipt****

11. Findings of each charge and specification referred to trial. [Summary of each charge and specification (include at a minimum the gravamen of the offense), the plea of the accused, the findings or other disposition accounting for any exceptions and substitutions, any modifications made by the convening authority or any post-trial ruling, order, or other determination by the military judge. R.C.M. 1111(b)(1)]

Charge I: Violation of the UCMJ, Article 80

Plea: Guilty Finding: Guilty

Specification: Attempted 120b - sexual abuse of a child involving indecent communications

Plea: Guilty Finding: Guilty

Charge II: Violation of the UCMJ, Article 120b

Plea: Not Guilty Finding: W/D*

Specification: Sexual abuse of a child not involving sexual contact

Plea: Not Guilty Finding: W/D*

Charge III: Violation of the UCMJ, Article 133b

Plea: Guilty Finding: Guilty

Specification 1: Conduct unbecoming of an officer and a gentleman

Plea: Guilty Finding: Guilty

Specification 2: Conduct unbecoming of an officer and a gentleman

Plea: Guilty Finding: Guilty

Specification 3: Conduct unbecoming of an officer and a gentleman

Plea: Guilty Finding: Guilty

Specification 4: Conduct unbecoming of an officer and a gentleman

Plea: Not Guilty Finding: W/D*

* After the announcement of the sentence by the military judge, the withdrawn charges and specifications will be dismissed without prejudice to ripen into prejudice upon completion of appellate review where the findings and sentence have been upheld.

12. Sentence to be Entered. Account for any modifications made by reason of any post-trial action by the convening authority (including any action taken based on a suspension recommendation), confinement credit, or any post-trial rule, order, or other determination by the military judge. R.C.M. 1111(b)(2). If the sentence was determined by a military judge, ensure confinement and fines are segmented as well as if a sentence shall run concurrently or consecutively.

The Military Judge adjudged the following sentence:

- Dismissal, and confinement adjudged as follows:

Charge I: Violation of the UCMJ, Article 80

Specification: 9 months of confinement

Charge III: Violation of the UCMJ, Article 133

Specification 1: 9 months of confinement

Specification 2: 9 months of confinement

Specification 3: 6 months of confinement

Confinement will run concurrently.

Total confinement time to be served is 9 months.

Plea Agreement:

- A dismissal will be adjudged

- The minimum confinement to be adjudged for all offenses is confinement for 6 months, and the maximum confinement to be adjudged for all offenses is confinement for 9 months.

- Forfeitures will not be adjudged

- Fines will not be adjudged

- Reduction of rank is not applicable

- No other lawful punishments will be adjudged

Convening Authority:

Pursuant to the plea agreement and Art. 58b(b), UCMJ, the accused requested that the Convening Authority defer and waive the remainder of pay and allowances of the accused's enlistment (in the amount of \$11,812.78 per month) to be sent to the accused's spouse during the entire period of deferment and not to exceed six (6) months from the date of the Entry of Judgment. The Convening Authority approved deferment and waiver of automatic forfeitures.

Pretrial confinement credit: 170 days

13. Deferment and Waiver. Include the nature of the request, the CA's Action, the effective date of the deferment, and date the deferment ended. For waivers, include the effective date and the length of the waiver. RCM 1111(b)(3)

Pursuant to the plea agreement and Art. 58b(b), UCMJ, the accused requested that the Convening Authority defer and waive the remainder of pay and allowances of the accused's enlistment (in the amount of \$11,812.78 per month) to be sent to the accused's spouse during the entire period of deferment and not to exceed six (6) months from the date of the Entry of Judgment.

On 18 December 2023, the Convening Authority deferred all of the automatic forfeitures from 14 days from the date the sentence was adjudged until the date the entry of judgment is signed by the military judge.

All of the automatic forfeitures are waived for a period of six months or expiration of term of service, whichever is sooner, with the waiver commencing on the date the entry of judgment is signed by the military judge.

14. Action convening authority took on any suspension recommendation from the military judge:

N/A. The Military Judge did not recommend suspension.

15. Judge's signature:

WALSH.ARAN.TAY
LOR

Digitally signed by
WALSH.ARAN.TAYLOR
Date: 2024.01.22 11:19:49 -08'00'

16. Date judgment entered:

Jan 22, 2024

17. In accordance with RCM 1111(c)(1), the military judge who entered a judgment may modify the judgment to correct computational or clerical errors within 14 days after the judgment was initially entered. Include any modifications here and resign the Entry of Judgment.

18. Judge's signature:

19. Date judgment entered:

ENTRY OF JUDGMENT

SECTION A - ADMINISTRATIVE

1. NAME OF ACCUSED (LAST, FIRST, MI) ALVEY, Douglas, J.		2. PAYGRADE/RANK O3	3. DoD ID NUMBER [REDACTED]
4. UNIT OR ORGANIZATION 7th ESB, 1st MLG		5. CURRENT ENLISTMENT 23-Aug-2013	6. TERM Indefinite
7. CONVENING AUTHORITY (UNIT/ORGANIZATION) 1st MLG	8. COURT-MARTIAL TYPE General	9. COMPOSITION Judge Alone - MJA16	10. DATE COURT-MARTIAL ADJOURNED 27-Oct-2023

SECTION B - ENTRY OF JUDGMENT

****MUST be signed by the Military Judge (or Circuit Military Judge) within 20 days of receipt****

11. Findings of each charge and specification referred to trial. [Summary of each charge and specification (include at a minimum the gravamen of the offense), the plea of the accused, the findings or other disposition accounting for any exceptions and substitutions, any modifications made by the convening authority or any post-trial ruling, order, or other determination by the military judge. R.C.M. 1111(b)(1)]

Charge I: Violation of the UCMJ, Article 80

Plea: Guilty Finding: Guilty

Specification: Attempted 120b - sexual abuse of a child involving indecent communications

Plea: Guilty Finding: Guilty

Charge II: Violation of the UCMJ, Article 120b

Plea: Not Guilty Finding: W/D*

Specification: Sexual abuse of a child not involving sexual contact

Plea: Not Guilty Finding: W/D*

Charge III: Violation of the UCMJ, Article 133b

Plea: Guilty Finding: Guilty

Specification 1: Conduct unbecoming of an officer and a gentleman

Plea: Guilty Finding: Guilty

Specification 2: Conduct unbecoming of an officer and a gentleman

Plea: Guilty Finding: Guilty

Specification 3: Conduct unbecoming of an officer and a gentleman

Plea: Guilty Finding: Guilty

Specification 4: Conduct unbecoming of an officer and a gentleman

Plea: Not Guilty Finding: W/D*

* After the announcement of the sentence by the military judge, the withdrawn charges and specifications will be dismissed without prejudice to ripen into prejudice upon completion of appellate review where the findings and sentence have been upheld.

12. Sentence to be Entered. Account for any modifications made by reason of any post-trial action by the convening authority (including any action taken based on a suspension recommendation), confinement credit, or any post-trial rule, order, or other determination by the military judge. R.C.M. 1111(b)(2). If the sentence was determined by a military judge, ensure confinement and fines are segmented as well as if a sentence shall run concurrently or consecutively.

The Military Judge adjudged the following sentence:

- Dismissal, and confinement adjudged as follows:

Charge I: Violation of the UCMJ, Article 80

Specification: 9 months of confinement

Charge III: Violation of the UCMJ, Article 133

Specification 1: 9 months of confinement

Specification 2: 9 months of confinement

Specification 3: 6 months of confinement

Confinement will run concurrently.

Total confinement time to be served is 9 months.

Plea Agreement:

- A dismissal will be adjudged

- The minimum confinement to be adjudged for all offenses is confinement for 6 months, and the maximum confinement to be adjudged for all offenses is confinement for 9 months.

- Forfeitures will not be adjudged

- Fines will not be adjudged

- Reduction of rank is not applicable

- No other lawful punishments will be adjudged

Convening Authority:

Pursuant to the plea agreement and Art. 58b(b), UCMJ, the accused requested that the Convening Authority defer and waive the remainder of pay and allowances of the accused's enlistment (in the amount of \$11,812.78 per month) to be sent to the accused's spouse during the entire period of deferment and not to exceed six (6) months from the date of the Entry of Judgment. The Convening Authority approved deferment and waiver of automatic forfeitures.

Pretrial confinement credit: 170 days

13. Deferment and Waiver. Include the nature of the request, the CA's Action, the effective date of the deferment, and date the deferment ended. For waivers, include the effective date and the length of the waiver. RCM 1111(b)(3)

Pursuant to the plea agreement and Art. 58b(b), UCMJ, the accused requested that the Convening Authority defer and waive the remainder of pay and allowances of the accused's enlistment (in the amount of \$11,812.78 per month) to be sent to the accused's spouse during the entire period of deferment and not to exceed six (6) months from the date of the Entry of Judgment.

On 18 December 2023, the Convening Authority deferred all of the automatic forfeitures from 14 days from the date the sentence was adjudged until the date the entry of judgment is signed by the military judge.

All of the automatic forfeitures are waived for a period of six months or expiration of term of service, whichever is sooner, with the waiver commencing on the date the entry of judgment is signed by the military judge.

14. Action convening authority took on any suspension recommendation from the military judge:

N/A. The Military Judge did not recommend suspension.

15. Judge's signature:

WALSH.ARAN.TAY
LOR.

Digitally signed by
WALSH.ARAN.TAYLOR.
Date: 2024.01.22 11:19:49 -08'00'

16. Date judgment entered:

Jan 22, 2024

17. In accordance with RCM 1111(c)(1), the military judge who entered a judgment may modify the judgment to correct computational or clerical errors within 14 days after the judgment was initially entered. Include any modifications here and resign the Entry of Judgment.

18. Judge's signature:

19. Date judgment entered:



UNITED STATES MARINE CORPS
CAMP PENDLETON BRANCH, WESTERN REGION
MARINE CORPS DEFENSE SERVICES ORGANIZATION
MARINE CORPS INSTALLATIONS WEST
BOX 555031
CAMP PENDLETON, CALIFORNIA 92055-5031

IN REPLY REFER TO
5800
DSO/kem
1 Aug 23

From: Defense Counsel
To: File

Subj: WAIVER OF ARTICLE 32 HEARING IN THE CASE OF UNITED STATES V. CAPTAIN DOUGLAS J. ALVEY, USMC

Ref: (a) Art. 32, U.C.M.J.
(b) Art. 33, U.C.M.J.

Encl: (1) DD Form 458 (Charge Sheet) of 14 July 2023
(2) Appointing Order

1. We, Philip Stackhouse and Captain K.E. Malcolm, are Captain Douglas J. Alvey's defense counsel.
2. An Article 32 Preliminary Hearing was originally scheduled for 7-9 August 2023.
3. On 1 August 2023, Capt Alvey agreed that waiving his Article 32 Preliminary Hearing for the charges and specifications reflected in enclosure (1) was in his best interest.
4. In accordance with the references, Capt Alvey fully understands the nature and purpose of an Article 32 Preliminary Hearing and the rights he would have at such a hearing. He understands that because of his waiver, the charges and specifications contained in enclosure (1) may be referred to trial by general court-martial without an Article 32 Preliminary Hearing.

[REDACTED]
P. STACKHOUSE
Defense Counsel

[REDACTED]
K.E. MALCOLM
Defense Counsel
Captain, USMC

[REDACTED]
D.J. ALVEY
Accused
Captain, USMC



UNITED STATES MARINE CORPS
1ST MARINE LOGISTICS GROUP, FMF
BOX 555606
CAMP PENDLETON, CALIFORNIA 92055-5606

IN REPLY REFER TO:

5811

SJA

20 Sep 23

From: Staff Judge Advocate

To: Commanding General, 1st Marine Logistics Group, FMF

Subj: PRETRIAL ADVICE AND RECOMMENDATION IN THE CASE OF UNITED STATES V CAPTAIN DOUGLAS J ALVEY US MARINE CORPS

Ref: (a) Article 32, UCMJ
(b) R.C.M. 405, MCM (2019 ed.)
(c) Article 34, UCMJ
(d) R.C.M. 406, MCM (2023 ed.)
(e) Appendix 2.1,
(f) GCMCO #1-23 of 17 Jul 23

Encl: (1) DD Form 458 of 14 Jul 23 Charge Sheet
(2) DC ltr 5800 DSO/kem of 1 Aug 23 Art 32

1. In accordance with references (a) and (b), on 24 July 2023, you appointed a preliminary hearing officer to conduct a hearing into the charges and specifications contained in enclosure (1). On 1 August 2023, the Accused, through counsel, submitted enclosure (2), waiving the preliminary hearing.

2. Pursuant to references (c) and (d), I have reviewed the charges contained in enclosure (1) and the available evidence. It is my opinion that:

- a. Each specification alleges an offense under the UCMJ;
 - b. The evidence establishes probable cause that the Accused committed each offense charged in the specifications; and
 - c. A court-martial would have personal jurisdiction over the Accused, and subject-matter jurisdiction over the alleged offenses.
3. After considering reference (e), I recommend that, in the interests of justice and discipline, you refer all charges and specifications contained in enclosure (1) to trial by general court-martial.

Subj: PRETRIAL ADVICE AND RECOMMENDATION IN THE CASE OF UNITED
STATES V CAPTAIN DOUGLAS J ALVEY US MARINE CORPS

4. If you concur with my recommendation, you may refer all of the charges and specifications to a general court-martial convened by reference (f) by signing the referral block of enclosure (1).

A black rectangular redaction box covering the signature area.

Digitally signed by
SHEW.WAYNE
Date: 2023.09.20 13:56:26 -07'00'

W. SHEW



UNITED STATES MARINE CORPS

1ST MARINE LOGISTICS GROUP, FMF
BOX 555606
CAMP PENDLETON, CALIFORNIA 92055-5606

IN REPLY REFER TO:

5813

GCMCO #1-23

JUL 17 2023

A general court-martial is hereby convened pursuant to Articles 22 and 25 of the Uniform Code of Military Justice and Section 0120 of the Manual of the Judge Advocate General. It may proceed at Marine Corps Base, Camp Pendleton, California or any such authorized place as directed. This convening order supersedes all other general court-martial convening orders of 1st Marine Logistics Group. The court-martial will be constituted as follows:

MEMBERS

Colonel T. M. Menke, U.S. Marine Corps;
Colonel J. S. McCalmont, U.S. Marine Corps;
Colonel P. N. Wilson, U.S. Marine Corps;
Lieutenant Colonel E. Kauffman, U.S. Marine Corps;
Lieutenant Colonel S. R. Culbertson, U.S. Marine Corps;
Major A. W. Cloninger, U.S. Marine Corps;
Major Y. Omarov, U.S. Marine Corps; and
Major G. C. Luedtke, U.S. Marine Corps.

[REDACTED]
A. M. NIEBEL
Brigadier General
U.S. Marine Corps
Commanding General



UNITED STATES MARINE CORPS
1ST MARINE LOGISTICS GROUP, FMF
BOX 555606
CAMP PENDLETON, CALIFORNIA 92055-5606

IN REPLY REFER TO:

5811

SJA

20 Sep 23

From: Staff Judge Advocate

To: Commanding General, 1st Marine Logistics Group, FMF

Subj: PRETRIAL ADVICE AND RECOMMENDATION IN THE CASE OF UNITED STATES V CAPTAIN DOUGLAS J ALVEY US MARINE CORPS

Ref: (a) Article 32, UCMJ
(b) R.C.M. 405, MCM (2019 ed.)
(c) Article 34, UCMJ
(d) R.C.M. 406, MCM (2023 ed.)
(e) Appendix 2.1,
(f) GCMCO #1-23 of 17 Jul 23

Encl: (1) DD Form 458 of 14 Jul 23 Charge Sheet
(2) DC ltr 5800 DSO/kem of 1 Aug 23 Art 32

1. In accordance with references (a) and (b), on 24 July 2023, you appointed a preliminary hearing officer to conduct a hearing into the charges and specifications contained in enclosure (1). On 1 August 2023, the Accused, through counsel, submitted enclosure (2), waiving the preliminary hearing.

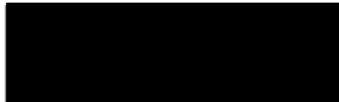
2. Pursuant to references (c) and (d), I have reviewed the charges contained in enclosure (1) and the available evidence. It is my opinion that:

- a. Each specification alleges an offense under the UCMJ;
- b. The evidence establishes probable cause that the Accused committed each offense charged in the specifications; and
- c. A court-martial would have personal jurisdiction over the Accused, and subject-matter jurisdiction over the alleged offenses.

3. After considering reference (e), I recommend that, in the interests of justice and discipline, you refer all charges and specifications contained in enclosure (1) to trial by general court-martial.

Subj: PRETRIAL ADVICE AND RECOMMENDATION IN THE CASE OF UNITED
STATES V CAPTAIN DOUGLAS J ALVEY US MARINE CORPS

4. If you concur with my recommendation, you may refer all of the charges and specifications to a general court-martial convened by reference (f) by signing the referral block of enclosure (1).

A black rectangular redaction box covering the signature area.

Digitally signed by
SHEW.WAYNE
Date: 2023.09.20 13:56:26 -07'00'

W. SHEW



UNITED STATES MARINE CORPS
CAMP PENDLETON BRANCH, WESTERN REGION
MARINE CORPS DEFENSE SERVICES ORGANIZATION
MARINE CORPS INSTALLATIONS WEST
BOX 555031
CAMP PENDLETON, CALIFORNIA 92055-5031

IN REPLY REFER TO
5800
DSO/kem
1 Aug 23

From: Defense Counsel
To: File

Subj: WAIVER OF ARTICLE 32 HEARING IN THE CASE OF UNITED STATES V. CAPTAIN DOUGLAS J. ALVEY, USMC

Ref: (a) Art. 32, U.C.M.J.
(b) Art. 33, U.C.M.J.

Encl: (1) DD Form 458 (Charge Sheet) of 14 July 2023
(2) Appointing Order

1. We, Philip Stackhouse and Captain K.E. Malcolm, are Captain Douglas J. Alvey's defense counsel.
2. An Article 32 Preliminary Hearing was originally scheduled for 7-9 August 2023.
3. On 1 August 2023, Capt Alvey agreed that waiving his Article 32 Preliminary Hearing for the charges and specifications reflected in enclosure (1) was in his best interest.
4. In accordance with the references, Capt Alvey fully understands the nature and purpose of an Article 32 Preliminary Hearing and the rights he would have at such a hearing. He understands that because of his waiver, the charges and specifications contained in enclosure (1) may be referred to trial by general court-martial without an Article 32 Preliminary Hearing.

[REDACTED]
P. STACKHOUSE
Defense Counsel

[REDACTED]
K.E. MALCOLM
Defense Counsel
Captain, USMC

[REDACTED]
D.J. ALVEY
Accused
Captain, USMC

CHARGE SHEET

1. NAME OF ACCUSED (Last, First, MI) Alvey, Douglas, J.			I. PERSONAL DATA 2. EDIPI [REDACTED]		3. RANK/RATE Capt	4. PAY GRADE O-3
5. UNIT OR ORGANIZATION 7th Engineer Support Battalion, 1st Marine Logistics Group			6. CURRENT SERVICE a. INITIAL DATE 23 Apr 2013		b. TERM Indefinite	
7. PAY PER MONTH a. BASIC \$7,340.10			b. SEA/FOREIGN DUTY NONE		c. TOTAL \$7,340.10	
8. NATURE OF RESTRAINT OF ACCUSED PTC			9. DATE(S) IMPOSED 10 May 2023 - Present			

II. CHARGES AND SPECIFICATIONS

10. Charge I: Violation of the UCMJ, Article 80

Specification (*Attempt - Sexual Abuse of a Child Involving Indecent Communications*): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 11 January 2023 and on or about 11 April 2023, attempt to commit a lewd act upon a child.

Charge II: Violation of the UCMJ, Article 120b

Specification (*Sexual Abuse of a Child Involving Indecent Exposure*): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 1 April 2022 and on or about 4 May 2023, commit a lewd act upon a child.

Charge III: Violation of the UCMJ, Article 133

Specification 1 (*Conduct Unbecoming an Officer and a Gentleman*): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 1 April 2022 and on or about 4 May 2023, discuss his sexual desires with persons he believed to be minors who had not attained the age of 16 years, and that under the circumstances, the Accused's conduct was unbecoming an officer and a gentleman.

Specification 2 (*Conduct Unbecoming an Officer and a Gentleman*): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 1 April 2022 and on or about 4 May 2023, send shirtless photos of himself to persons he believed to be minors who had not attained the age of 16 years, and that under the circumstances, the Accused's conduct was unbecoming an officer and a gentleman.

[SEE SUPPLEMENTAL PAGE]

III. PREFERRAL	
11a. NAME OF ACCUSER (Last, First, MI) Adams, Dajuan, Y.	b. GRADE Cpl
c. ORGANIZATION OF ACCUSER HqSptBn, MCI-W, MCB, CamPen, CA	e. DATE 14 July 2023

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 14th day of July, 2023, and signed the foregoing charges and specifications under oath that he is a person subject to the Uniform Code of Military Justice and that he either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his knowledge and belief

T. J. SOMMER

Typed Name of Officer

HqSptBn, MCI-W, MCB, CamPen, CA

Organization of Officer

First Lieutenant, U.S. Marine Corps

Grade and Service

Judge Advocate

Official Capacity to Administer Oaths
(See R.C.M. 307(b)--must be commissioned officer)

Signature

ORIGINAL

12. On July 14th, 20 23, the accused was informed of the charges against him and of the name of the accuser known to me. (See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

S. R. CULBERTSON

Typed Name of Immediate Commander

7th ESB, 1st MLG

Organization of Immediate Commander

Lieutenant Colonel, U.S. Marine Corps

IV. RECEIPT BY COURT-MARTIAL CONVENING AUTHORITY

13. The sworn charges were received at 1138 hours, July 14th, 20 23 at 7th ESB, 1st MLG
Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE¹ Commanding Officer

J. M. WILLIAMS

Typed Name of Officer

Legal Officer

Official Capacity of Officer Signing

First Lieutenant, U.S. Marine Corps

Grade

Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

PLACE

c. DATE

1st Marine Logistics Group

Camp Pendleton, CA

SEP 21 2023

Referred for trial to the general court-martial convened by GCMCO #1-23

Dated 17 July, 20 23, subject to the following instructions:² None

By //////////////////// Of
Command or Order

A. M. NIEBEL

Typed Name of Officer

Commanding General

Official Capacity of Officer Signing

BRIGADIER GENERAL, U.S. MARINE CORPS

Grade

15. On 21 September, 20 23, I caused to be served a copy hereof on the above named accused.

C. P. HUR

Typed Name of Trial Counsel

Lieutenant Colonel, U.S. Marine Corps

Grade or Rank of Trial Counsel

HUR, CHRISTIAN, PATRICK, 1

Digitally signed by

HUR, CHRISTIAN, PATRICK, 13335001

Date: 2023.09.21 17:48

Signature

FOOTNOTES

1 - When an appropriate commander signs personally, inapplicable words are stricken.
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

Charge III: Violation of the UCMJ, Article 133 (Continued)

Specification 3 (*Conduct Unbecoming an Officer and a Gentleman*): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 13 July 2022 and on or about 4 May 2023, and while married, converse with indecent language with persons he believed to be prostitutes, and that under the circumstances, the Accused's conduct was unbecoming an officer and a gentleman.

Specification 4 (*Conduct Unbecoming an Officer and a Gentleman*): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 1 April 2022 and on or about 4 May 2023, send pictures of his genitals to persons he believed to be minors who had not attained the age of 16 years, and that under the circumstances, the Accused's conduct was unbecoming an officer and a gentleman.

[AND NO OTHERS]

ORIGINAL



UNITED STATES MARINE CORPS

1ST MARINE LOGISTICS GROUP, FMF
BOX 555606
CAMP PENDLETON, CALIFORNIA 92055-5606

IN REPLY REFER TO:

5813

GCMCO #1-23

JUL 17 2023

A general court-martial is hereby convened pursuant to Articles 22 and 25 of the Uniform Code of Military Justice and Section 0120 of the Manual of the Judge Advocate General. It may proceed at Marine Corps Base, Camp Pendleton, California or any such authorized place as directed. This convening order supersedes all other general court-martial convening orders of 1st Marine Logistics Group. The court-martial will be constituted as follows:

MEMBERS

Colonel T. M. Menke, U.S. Marine Corps;
Colonel J. S. McCalmont, U.S. Marine Corps;
Colonel P. N. Wilson, U.S. Marine Corps;
Lieutenant Colonel E. Kauffman, U.S. Marine Corps;
Lieutenant Colonel S. R. Culbertson, U.S. Marine Corps;
Major A. W. Cloninger, U.S. Marine Corps;
Major Y. Omarov, U.S. Marine Corps; and
Major G. C. Luedtke, U.S. Marine Corps.

A. M. NIEBEL
Brigadier General
U.S. Marine Corps
Commanding General

Sommer Capt Thomas J

From: Lee Col Yong J
Sent: Saturday, April 29, 2023 1:08 AM
To: Carter Capt Kadian D; Sommer 1stLt Thomas J
Cc: Howell Cpl Caleb J; Adams Cpl Dajuan Y
Subject: Re: Request for Search Warrant ICO Capt Alvey
Attachments: NonDisclosure Order ICO Capt Alvey (MJ Ver Approved) - Copy.pdf

Please see attached. Have a good weekend.

SF, Col Lee
Military Judge

From: Carter Capt Kadian D
Sent: Friday, April 28, 2023 5:56 PM
To: Lee Col Yong J; Sommer 1stLt Thomas J
Cc: Howell Cpl Caleb J; Adams Cpl Dajuan Y
Subject: RE: Request for Search Warrant ICO Capt Alvey

Good afternoon Your Honor,

Received, thank you. It seems the NDO is missing your signature. Could you please re-send a signed version at your convenience. Thank you Sir and have a great weekend.

Very respectfully,

Kadian D. Carter
Captain, U.S. Marine Corps
Senior Trial Counsel – Case Screening Division
Trial Services Organization (TSO)
Camp Pendleton, CA
kadian.carter@usmc.mil
760-763-4778 (office)
[REDACTED] (cell)

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION OR ATTORNEY WORK PRODUCT. The information contained in this message may be privileged. It is intended only to be read by the individual or entity addressed or their designee. If the reader of this message is not the intended recipient, you are on notice that any distribution of this message, in any form, is prohibited. If you have received this message in error, please immediately notify the sender and delete or destroy any copy of this message.

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Personally Identifiable Information (PII) contained in this email requires protection from unauthorized disclosure and must be used only by authorized persons in the conduct of official business. Any unauthorized disclosure or misuse of privacy and/or sensitive PII information may result in criminal and/or civil penalties. If you are not the intended recipient of this email, please immediately notify the sender and delete the email. Emails containing PII must be sent and received via encrypted email.

From: Lee Col Yong J <yong.lee@usmc.mil>
Sent: Friday, April 28, 2023 4:44 PM
To: Sommer 1stLt Thomas J <thomas.sommer@usmc.mil>
Cc: Carter Capt Kadian D <kadian.carter@usmc.mil>; Howell Cpl Caleb J <caleb.howell@usmc.mil>; Adams Cpl Dajuan Y <dajuan.adams@usmc.mil>
Subject: RE: Request for Search Warrant ICO Capt Alvey

1stLt Sommer,

APPROVED – Warrant & NDO. Have a good weekend.

-BREAK-

Cpl Howell,

Please upload per SOP when you are back in the office. Thanks.

SF, Col Lee
Military Judge

From: Sommer 1stLt Thomas J <thomas.sommer@usmc.mil>
Sent: Friday, April 28, 2023 3:24 PM
To: Lee Col Yong J <yong.lee@usmc.mil>
Cc: Carter Capt Kadian D <kadian.carter@usmc.mil>; Howell Cpl Caleb J <caleb.howell@usmc.mil>; Adams Cpl Dajuan Y <dajuan.adams@usmc.mil>
Subject: Request for Search Warrant ICO Capt Alvey

Good afternoon, Your Honor,

Please find attached for your consideration a pre-referral search warrant request pertaining to Capt Douglas J. Alvey, U.S. Marine Corps. This is the first Article 30a matter the Government has sought in this case. Thank you and standing by for questions or concerns.

Very respectfully,

Thomas J. Sommer
First Lieutenant, U.S. Marine Corps
Trial Counsel - Case Screening Division (CSD)
Trial Services Organization (TSO)
Camp Pendleton, CA
760-725-0681 (office)
thomas.sommer@usmc.mil

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION OR ATTORNEY WORK PRODUCT. The information contained in this message may be privileged. It is intended only to be read by the individual or entity addressed or their designee. If the reader of this message is not the intended recipient, you are on notice that any distribution of this message, in any form, is prohibited. If you have received this message in error, please immediately notify the sender and delete or destroy any copy of this message.

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IN RE: SEARCH WARRANT
FROM AT&T INC.)
)
) Case Identifier: 26Apr23-NEEA-00059-8EMA
) **Filed Under Seal**
)
)

The United States has submitted an application pursuant to 18 U.S.C. § 2705(b) and Rule for Court Martial 703(A)(d) requesting that the Court issue an Order commanding AT&T, a company headquartered in Dallas, TX, and which stores data at 11760 US Highway 1, Suite 300, North Palm Beach, FL 33408, not to notify any person (including the subscriber and customer of the account listed in the search warrant) of the existence of the attached search warrant until further order of the Court.

IT IS THEREFORE ORDERED under 18 U.S.C. § 2705(b) and RCM 703(A)(d) that AT&T, Inc. is prohibited from disclosing the existence of the attached search warrant, or this Order of the Court, to the listed subscriber or any other person, until 90 days from the date of this order, except that AT&T, Inc. may disclose the attached search warrant to an attorney for AT&T, Inc. for the purpose of receiving legal advice.

IT IS FURTHER ORDERED that the application and this Order are sealed until 90 days
from the date of this Order.

LEE.YONG.JO Digitally signed by
ON. [REDACTED] LEE.YONG.JOON [REDACTED]
[REDACTED] Date: 2023.04.28
[REDACTED] 16:42:21 -07'00'

Date: 28 April 2023

Yong J. Lee
Colonel, U.S. Marine Corps
Military Judge
Western Judicial Circuit
Navy-Marine Corps Trial Judiciary

**NAVY-MARINE CORPS TRIAL JUDICIARY
WESTERN JUDICIAL CIRCUIT**

IN THE MATTER OF THE SEARCH OF
INFORMATION ASSOCIATED WITH THE
PHONE NUMBER (443) 307-1291,
BELONGING TO CAPTAIN DOUGLAS
JAMES ALVEY, WHICH IS STORED AT
PREMISES OWNED, MAINTAINED,
CONTROLLED, OR OPERATED BY AT&T
INC., LOCATED AT 11760 US HWY 1,
SUITE 300, NORTH PALM BEACH, FL
33408.

Case No. 26Apr23-NEEA-00059-8EMA

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Anthony Golt, being duly sworn, depose and say:

1. I am a Special Agent with the Department of the Navy, Naval Criminal Investigative Service ("NCIS"), an investigative branch of the United States Department of the Navy. I am a federal law enforcement officer authorized by the Secretary of the Navy to request the issuance of search warrants. I have been employed as a Special Agent for NCIS for approximately five years and am currently assigned to the NCIS Resident Agency office at Naval Weapons Station ("NWS") Earle in Colts Neck, NJ. I hold a Bachelor of Science in Business from Montana State University, Bozeman, Montana.

2. I make this affidavit in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require AT&T Inc. ("AT&T") to disclose to the government records and other information, including the contents of communications and location information, associated with the phone number (443) 307-1291 that is stored at premises owned, maintained, controlled, or operated by AT&T, a company headquartered in Dallas, TX, and which stores data at 11760 US Highway 1, Suite 300, North

Palm Beach, FL 33408. The information to be disclosed by AT&T and searched by the government is described in the following paragraphs and in Attachments A and B. From the evidence set forth below, there is probable cause to believe that within these accounts there will be found evidence of the commission of violations of Uniform Code of Military Justice (UCMJ) Article 80, Attempts; Article 134, Indecent Language; and Article 133, Conduct Unbecoming of an Officer and a Gentleman.

3. Because this affidavit is submitted for the limited purpose of securing the requested search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to establish probable cause.

THE INVESTIGATION AND PROBABLE CAUSE

4. On 06APR23, NCIS was contacted by Daniel ANFANG, CIV, Detective Lieutenant, Rockland County District Attorney's Office (RCDAO), 1 South Main Street, Suite 500, New City, New York (NY) 10956, regarding a United State Marine having sexual conversations with a undercover RCDAO Investigator, Debbie MONAHAN, CIV, portraying herself online as a 13 year old female. The communications originated from cell phone number (443) 307-1291. A review of Department of Defense records revealed the aforementioned cell phone belonging to Captain (Capt) Douglas James ALVEY, USMC, 7th Engineer Support Battalion (7th ESB), 1st Marine Logistics Group (1st MLG), Marine Corps Base (MCB) Camp Pendleton, California (CA) (hereafter SUBJECT).

5. A search of public records by RCDAO for telephone number (443) 307-1291 revealed the number belonged to the SUBJECT. SUBJECT expressed an interest to travel to Rockland, NY to meet the alleged 13 year old on 11APR23 for the purpose of engaging in sexual

activity. SUBJECT did not travel to Rockland County on 11APR23 and has ceased all communication with MONAHAN.

6. MONAHAN was initially contacted by the SUBJECT on the website Chat Avenue (<https://www.chat-avenue.com>). Chat Avenue is a web site that hosts several chat rooms and allows users to create profiles within the chat room. MONAHAN created a profile with the username “nicoleeexo” stating “13 f hmu if u from ny.” MONAHAN created the profile in the “Teen Chat” chatroom, which is a chat room specifically designed for teenagers between the ages of 13 and 19. Based upon my training and experience I know that “13 f hmu if u from ny” means 13 year old Female hit me up if you are from NY. SUBJECT engaged in a chat with MONAHAN using the profile “fun athlete” beginning at 14:32 (Eastern Daylight Time) on 4APR23 by stating “Hey i am 18 m in ny, you?” Based upon my training and experience I know that 18 m means 18 year old male.

7. Chat-Avenue provided records showing user “fun athlete” last access the platform on 26APR23 using IP address 47.150.2.100. The aforementioned IP address is owned by Frontier Communications of America, Inc. (hereafter FRONTIER). FRONTIER provided subscriber data for the aforementioned IP address which indicates SUBJECT was assigned the IP address, and SUBJECTS residence, 32972 Valence Ct, Temecula, CA is the location for internet service tied to the IP address.

8. SUBJECT asks MONAHAN if she is single and she replies “yaaaa.” SUBJECT says “Yeah id love to hangout with you, maybe go shopping or a movie or something.” MONAHAN replies “that would be funnnn.” MONAHAN and SUBJECT discuss a time when SUBJECT can come pick her up. SUBJECT suggest “Yeah, maybe some m9vie making out too

haha.” MONAHAN responds “oooo ;).” SUBJECT asks if that is okay and also if touching is okay. MONAHAN says “that’s okkk.”

9. MONAHAN says “well ive done a lil touchin before” “a lil on top.” SUBJECT asks “On your chest?” SUBJECT says “How did you like that? What size are you?” MONAHAN responds “34 a” to which SUBJECT says “Nice, id love to touch on them too” “touch all over you in the movies.” SUBJECT asks “Can I take your shirt and bra off too?” MONAHAN says “yaaaaa” and SUBJECT says “Nice, i will like them a lot” “You will get me very hard lol yes.” MONAHAN then provides the SUBJECT with her phone number, (845) 681-2731, for texting.

10. MONAHAN and SUBJECT exchanged numerous text messages from 04APR23 – 11APR23. Text messages sent by SUBJECT include “I kiss all over you” “Of course :) I'll be all over you in the movies” “You can take your shirt off for me too ;).” MONAHAN at one point says “i wont get preggo righ” and SUBJECT says “And no, only if I finish inside you and you aren't on bc” “OK, we will have to try and pull out then and cum somewhere else” “Lol up to you, I like to cum inside, depends where you want a mess on you” “Mm I'd be inside you right this second of I was there with you” “Lol good, that makes me cum so hard ;)” “I can cover your mouth or put your face in the pillow while we do it.”

11. On 04APR23 – 05APR23, SUBJECT sent three photos of himself to MONAHAN. The three photos depict SUBJECTS chest and face. In two of the photos, SUBJECT is bare-chested and in one photo SUBJECT is wearing a white t-shirt. The photos depict an individual consistent with SUBJECT’S official military photographs. The metadata on the photos revealed they were taken on 16JAN15 and 17JAN15 by a SAMSUNG-SM-G900A. SUBJECT would have been 24 years old at the time the pictures were taken.

12. Based upon my training and experience, I know electronic devices such as cellular telephones are capable of tracking locations through global positioning systems (GPS). Historical GPS data can be retained on these electronic devices and provide evidence showing where the devices were located during certain times. It is probable that SUBJECT maintained his cell phone in his possession at the time he allegedly committed or attempted to commit the specified UCMJ Offenses, and those devices have GPS data showing the location of the devices when the offenses were committed. The cell phone will also contain the text messages SUBJECT had with MONAHAN and the images exchanged between SUBJECT and MONAHAN. Based on my training and experience, individuals who express a desire to engage in sexual acts with minors also access and obtain child sexual abuse material (CSAM). In this case, the SUBJECT specifically requested and obtained photographs from MONAHAN. Based on my training and experience, it is probable SUBJECT'S phone and other electronic devices contain actual CSAM in addition to the photographs provided to him by MONAHAN.

13. Based on the facts described above, it is believed there is additional evidence pertinent to the investigation in the data held by AT&T, as more particularly described in Attachment B.

SERVICE AND EXECUTION

14. Under 18 U.S.C. § 2703(g), a law enforcement officer does not have to be present for either the service or the execution of the warrant. It is sufficient for us to service it by fax, email or regular mail upon AT&T. I request that AT&T be required to produce the electronic communications and other information identified in Attachment A hereto. Because AT&T is not aware of the facts of this investigation, its employees are not in a position to search for relevant evidence. In addition, requiring AT&T to perform the search would be a burden upon the

company. If all AT&T is asked to do is produce all the files in the accounts, an employee can do that easily. Requiring AT&T employees to search the materials to determine what content is relevant would add to their burden.

15. I request that the Court authorize law enforcement agents to seize only those items identified in Attachment B from what is produced by AT&T pursuant to the search warrant. In reviewing these items, I will treat them in the same way as if I were searching a file cabinet for certain documents. Items will be scanned quickly to determine if they are relevant to my search. If they are, they will be read. If I determine that they are not relevant, I will put them aside without viewing them in full. This method is similar to what a law enforcement officer would do in the search of a filing cabinet or a seized computer.

16. Under 18 U.S.C. § 2703(b)(1)(A), notice to the customer subscriber is not required when the government obtains the contents of the electronic communications using a search warrant.

17. Under 18 U.S.C. §§ 2711(3) and 3127, this Court has the authority to issue the warrant directing AT&T to comply even though AT&T is not located in this district, because the Court has jurisdiction over the offense being investigated.

18. AT&T shall disclose responsive data, if any, by sending to Naval Criminal Investigative Service, Resident Agency Earle, NJ, ATTN: SA Anthony Golt using the US Postal Service or another courier service.

19. I also ask that the warrant direct AT&T to produce records and other information pertaining to these accounts. The government may obtain such records either by filing a motion under 18 U.S.C. § 2703(d), or by means of a search warrant under § 2703(c)(1)(A). Because I need a search warrant to obtain the electronic communications anyway, I am proceeding in the

request for records by search warrant as well. The facts set forth above to show probable cause also constitute specific and articulable facts, showing that there are reasonable grounds to believe that the records and other information sought are relevant and material to an ongoing criminal investigation, as required by 18 U.S.C. § 2703(d).

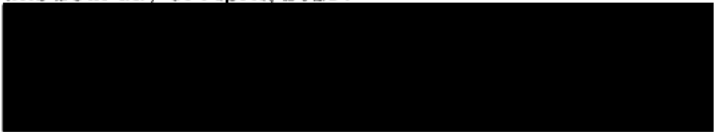
20. I request the Court also issue an order directing AT&T to not disclose the issuance of a search warrant to the account holder, as doing so could jeopardize the integrity of the investigation.

CONCLUSION

21. Based upon the foregoing, there is probable cause to believe that evidence and instrumentalities of the Specified UCMJ Offenses will be found in the item identified in Attachment A. I respectfully request authority to search the aforementioned item and to seize all items listed in Attachment B, respectively, as evidence and instrumentalities of the Specified UCMJ Offenses.


Special Agent Anthony Golt
Department of the Navy
Naval Criminal Investigative Service

Sworn and subscribed to before me this 28th day of April, 2023.


Capt Kadian D. Carter, U.S. Marine Corps
Trial Counsel, Case Screening Division
Trial Service Office, Camp Pendleton, CA

ATTACHMENT A
(To be served upon and complied with by AT&T.)
ITEMS TO BE SEARCHED

PROPERTY TO BE SEARCHED:

This warrant applies to information associated with the following AT&T identifiers:

Phone Number: +1 (443) 307-1291

which is stored at premises owned, maintained, controlled, or operated by AT&T, Inc. at 11760 US Hwy 1, Suite 300, North Palm Beach, FL 33408.

ATTACHMENT B - I
Particular Things to be Seized

I. Information to be disclosed by AT&T

To the extent that the information described in Attachment A is within the possession, custody, or control of AT&T, including any messages, records, files, logs, or information that have been deleted but are still available to AT&T, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), AT&T is required to disclose the following information to the government, in unencrypted form whenever available, for each account or identifier listed in Attachment A:

1. All records or other information regarding the identification of the account, to include full name, physical address, telephone numbers, email addresses (including primary, alternate, rescue, and notification email addresses, and verification information for each email address), the date on which the account was created, the length of service, the IP address used to register the account, account status, methods of connecting, and means and source of payment (including any credit or bank account numbers);
2. All records or other information regarding the devices associated with, or used in connection with, the account (including all current and past trusted or authorized devices and computers, and any devices used to access Snapchat services), including serial numbers, Unique Device Identifiers (“UDID”), Advertising Identifiers (“IDFA”), Global Unique Identifiers (“GUID”), Media Access Control (“MAC”) addresses, Integrated Circuit Card ID numbers (“ICCID”), Electronic Serial Numbers (“ESN”), Mobile Electronic Identity Numbers (“MEIN”), Mobile Equipment Identifiers (“MEID”), Mobile Identification Numbers (“MIN”), Subscriber Identity Modules (“SIM”), Mobile Subscriber Integrated Services Digital Network Numbers (“MSISDN”), International Mobile Subscriber Identities (“IMSI”), and International Mobile Station Equipment Identities (“IMEI”);
3. The contents of all messages associated with the account, including stored or preserved copies of messages sent to and from the account (including all draft and deleted messages), the source and destination account or phone number associated with each message, the date and time at which each message was sent, the size and length of each message, the actual IP addresses of the sender and the recipient of each message, and the media, if any, attached to each message between (845) 681-2731 and (443) 307-1291;
4. All records and information regarding locations where the account was accessed, including all data stored in connection with Location Services, between 4 April 2023 and 26 April 2023.



UNITED STATES MARINE CORPS

TRIAL SERVICES ORGANIZATION
LEGAL SERVICES SUPPORT TEAM
BOX 555031
CAMP PENDLETON, CALIFORNIA 92055-5031

IN REPLY REFER TO
5000-97
TSO
28 Apr 2023

From: Trial Counsel
To: Western Judicial Circuit Duty Judge

Subj: APPLICATION FOR PRE-REFERRAL WARRANT IN THE CASE OF UNITED STATES V. DOUGLAS J. ALVEY

Ref: (a) R.C.M. 309 Manual for Courts-Martial (2019)
(b) R.C.M. 703A Manual for Courts-Martial (2019)
(c) JAGINST 5800.7F w/ CH 2 (JAGMAN)
(d) NMCTJ Uniform Rules of Practice dtd 1 Jan 19
(e) Rule 8, WJC Rules of Court dtd 17 Feb 20
(f) Rule 8.5d, WJC Rules of Court dtd 17 Feb 20

Encl: (1) Application for Warrant (DD Form 3057) dtd 28 Apr 23
(2) Draft Warrant (DD Form 3056)
(3) NCIS Special Agent Anthony Golt Affidavit ISO Warrant Application
(4) Draft Order of Non-Disclosure

1. Pursuant to references (a) and (b), the Government respectfully requests this Court issue a warrant for the search of Captain Douglas J. Alvey's AT&T electronic communications and location data as set forth in the enclosures. The Government further requests this Court issue an Order of Non-Disclosure due to a likelihood of the destruction or tampering of evidence.
2. This is the first warrant the Government seeks in this case.
3. Point of contact is the undersigned at 401-486-1574 or Thomas.sommer@usmc.mil.

SOMMER.THOMAS. Digitally signed by
JOHN. SOMMER.THOMAS.JOHN
Date: 2023.04.28 14:41:00 -07'00'
Thomas J. Sommer
First Lieutenant, U.S. Marine Corps

I certify that I have served a true copy (via email and the Judicial SharePoint site) of the above on the Duty Military Judge and the Clerk of Court on 28 April 2023.

SOMMER.THOMAS. Digitally signed by
JOHN. SOMMER.THOMAS.JOHN
Date: 2023.04.28 14:41:18 -07'00'
Thomas J. Sommer
First Lieutenant, U.S. Marine Corps

Navy-Marine Corps Trial Judiciary / Western Judicial Circuit

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications and Information held by AT&T

Case Identifier: 26Apr23-NEEA-00059-8EMA

Search and Seizure Warrant Pursuant to 18 U.S.C. § 2703

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following property located at *(identify the electronic communications or remote computing service or describe the property to be searched and give its location)*:

Stored electronic communications and information, to include content, in the possession of AT&T Inc. ("AT&T"), an electronic communication service company headquartered in Dallas, TX, and which stores data at 11760 US Highway 1, Suite 300, North Palm Beach, FL 33408, associated with the phone number (443) 307-1291 and believed to be registered and to be used by Captain Douglas Alvey, U.S. Marine Corps. Such electronic communications and information includes the content and the logs, including sender, receipt, date, and time, of the text messages and phone calls between Captain Douglas Alvey and Debbie Monohan between 4 April 2023 and 26 April 2023, and records and information regarding locations where the account/phone number was accessed, including all data stored in connection with Location Services, between 4 April 2023 and 26 April 2023.

I find that the affidavit(s) and/or sworn testimony establish probable cause to search and seize the property described above, and that such search will reveal *(describe the property to be seized)*:

Electronic communications and information associated with the phone number (443) 307-1291, including the content, logs, sender, receipt, date, and time, of the text messages and phone calls between Captain Douglas Alvey and Debbie Monohan between 4 April 2023 and 26 April 2023, and records and information regarding locations where the account/phone number was accessed, including all data stored in connection with Location Services, between 4 April 2023 and 26 April 2023.

YOU ARE COMMANDED to execute this warrant on or before _____

(not to exceed 14 days)

The officer executing this warrant must prepare an inventory as required by law and promptly return this warrant and inventory to

Colonel Yong J. Lee, U.S. Marine Corps, Military Judge

Rank and name of military judge

Date and time issued: _____ hours

Colonel Yong J. Lee, U.S. Marine Corps, Military Judge

Military judge's name and title

Marine Corps Base Camp Pendleton, California

Military installation or location:

Signature of military judge

Questions and requests for relief should be directed to:

First name

Last name

<i>Phone number</i>	<i>E-mail address</i>
Return	
In the Matter of the Search of <i>(Briefly describe the property to be searched):</i> Stored Electronic Communications and Information held by AT&T, Inc.	))) Case Identifier: 26Apr23-NEEA-00059-8EMA))
Date and time warrant executed:	Copy of warrant and inventory left with:
Inventory made in the presence of:	
Certification	
Inventory of the property taken:	
I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.	
<i>Date:</i>	<i>Executing officer's signature</i>

First name

Last name

Title

Navy-Marine Corps Trial Judiciary / Western Judicial Circuit

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications and Information held by AT&T

Case Identifier: 26Apr23-NEEA-00059-8EMA

Application for Search and Seizure Warrant Pursuant to 18 U.S.C. § 2703

I, a federal law enforcement officer or authorized counsel for the Government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following property (*identify the electronic communications or remote computing service or describe the property to be searched and give its location*):

Stored electronic communications and information, to include content, in the possession of AT&T Inc. ("AT&T"), an electronic communication service company headquartered in Dallas, TX, and which stores data at 11760 US Highway 1, Suite 300, North Palm Beach, FL 33408, associated with the phone number (443) 307-1291 and believed to be registered and to be used by Captain Douglas Alvey, U.S. Marine Corps. Such electronic communications and information includes the content and the logs, including sender, receipt, date, and time, of the text messages and phone calls between Captain Douglas Alvey and Debbie Monohan between 4 April 2023 and 26 April 2023, and records and information regarding locations where the account/phone number was accessed, including all data stored in connection with Location Services, between 4 April 2023 and 26 April 2023.

There is now concealed within the jurisdiction of a court of competent jurisdiction pursuant to 18 U.S.C. §2711(3)(C) and 10 U.S.C. 846(d) (3), (*identify the property or data to be seized*):

Electronic communications and information associated with the phone number (443) 307-1291, including the content, logs, sender, receipt, date, and time, of the text messages and phone calls between Captain Douglas Alvey and Debbie Monohan between 4 April 2023 and 26 April 2023, and records and information regarding locations where the account/phone number was accessed, including all data stored in connection with Location Services, between 4 April 2023 and 26 April 2023.

The basis for the search is evidence of a crime.

10 U.S.C. §§ 80, 133, 134

Attempts; Conduct Unbecoming an Officer and Gentleman; Indecent Language

The search is related to a violation of:
(Insert code or UCMJ section)

Offense description:
(Title of the offense)

The application is based on these facts (*list the pertinent facts here or refer to an attachment*):

See attached affidavit from NCIS Special Agent Anthony Golt.

☐ Continued on the attached sheet

1stLt Thomas J. Sommer, U.S. Marine Corps

Applicant's printed name and title

☒ Non-disclosure Order Requested

SOMMER.THOMAS.JOHN

Digitally signed by SOMMER.THOMAS.JOHN
Date: 2023.04.28 14:19:44 -07'00'

Applicant's signature

Sworn to before me, a person authorized to administer oaths under 10 U.S.C. § 936

20230428

Capt Kadian D. Carter

Date

Printed name and title of military judge or other official administering oath

Marine Corps Base Camp Pendleton, California

CARTER.KADIAN.DAVID

Digitally signed by CARTER.KADIAN.DAVID
Date: 2023.04.28 15:20:45 -07'00'

Military installation or location

Signature of official administering oath

Sommer Capt Thomas J

From: Sommer 1stLt Thomas J
Sent: Monday, May 15, 2023 10:40 AM
To: Poteet LtCol Derek A
Cc: Carter Capt Kadian D; Howell Cpl Caleb J
Subject: RE: Request for Warrants ICO Capt D.J. Alvey
Signed By: thomas.sommer@usmc.mil

Good morning, Your Honor,

Received, thank you.

Very respectfully,

Thomas J. Sommer
First Lieutenant, U.S. Marine Corps
Trial Counsel - Case Screening Division (CSD)
Trial Services Organization (TSO)
Camp Pendleton, CA
760-725-0681 (office)
thomas.sommer@usmc.mil

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From: Poteet LtCol Derek A <derek.poteet@usmc.mil>
Sent: Monday, May 15, 2023 10:11 AM
To: Sommer 1stLt Thomas J <thomas.sommer@usmc.mil>
Cc: Carter Capt Kadian D <kadian.carter@usmc.mil>; Howell Cpl Caleb J <caleb.howell@usmc.mil>
Subject: RE: Request for Warrants ICO Capt D.J. Alvey

1stLt Sommer,

The two enclosed warrants are approved because they are supported by probable cause. They are provided to you for further action.

With respect to the Google warrant, I find that the facts of the present matter are highly distinguishable from the facts of U.S. v. Hoffman, 75 M.J. 120 (NMCCA 2016).

In the present matter, the affidavit establishes a clear nexus between the alleged misconduct and the use of electronic devices and platforms, including Capt Alvey's own apparent admission that he used electronic devices and platforms to communicate with multiple minors, to discuss sexual activity with them, to send them images of his own genitalia, and to ask them to send nude pictures of themselves.

A probable cause determination is "a practical, common-sense decision whether, given all the circumstances set forth in the affidavit . . ., including the 'veracity' and 'basis of knowledge' of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place." U.S. v. Hoffman, 75 M.J. 120, 125 (internal citations omitted). Where a person has acknowledged to law enforcement that they used electronic devices and platforms to solicit child pornography directly from underage people online, there exists a fair probability that their electronic devices and platforms contain contraband images or other evidence of possession of child pornography. This common sense appraisal of the totality of all the facts and circumstances presented in the affidavit requires no leap of logic. The warrant is based upon probable cause supported by affidavit.

S/F

Derek A. Poteet
Lieutenant Colonel, USMC
Military Judge
Western Judicial Circuit
derek.poteet@usmc.mil
760-725-6285

From: Sommer 1stLt Thomas J <thomas.sommer@usmc.mil>
Sent: Friday, May 12, 2023 1:17 PM
To: Poteet LtCol Derek A <derek.poteet@usmc.mil>
Cc: Carter Capt Kadian D <kadian.carter@usmc.mil>; Howell Cpl Caleb J <caleb.howell@usmc.mil>
Subject: Request for Warrants ICO Capt D.J. Alvey

Good afternoon, Your Honor,

Please find attached for your consideration pre-referral warrant requests pertaining to Capt Douglas J. Alvey, U.S. Marine Corps. These are the second and third Article 30a warrants that the Government has sought in this case. Thank you and standing by for questions or concerns.

Very respectfully,

Thomas J. Sommer
First Lieutenant, U.S. Marine Corps
Trial Counsel - Case Screening Division (CSD)
Trial Services Organization (TSO)
Camp Pendleton, CA
760-725-0681 (office)
thomas.sommer@usmc.mil

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UNITED STATES MARINE CORPS

TRIAL SERVICES ORGANIZATION
LEGAL SERVICES SUPPORT TEAM
BOX 555031
CAMP PENDLETON, CALIFORNIA 92055-5031

IN REPLY REFER TO
5000-97
TSO
12 May 2023

From: Trial Counsel

To: Western Judicial Circuit Duty Judge

Subj: APPLICATION FOR PRE-REFERRAL WARRANT IN THE CASE OF UNITED STATES V. DOUGLAS J. ALVEY

Ref: (a) R.C.M. 309 Manual for Courts-Martial (2019)
(b) R.C.M. 703A Manual for Courts-Martial (2019)
(c) JAGINST 5800.7F w/ CH 2 (JAGMAN)
(d) NMCTJ Uniform Rules of Practice dtd 1 Jan 19
(e) Rule 8, WJC Rules of Court dtd 17 Feb 20
(f) Rule 8.5d, WJC Rules of Court dtd 17 Feb 20

Encl: (1) Application for Warrant (DD Form 3057) ICO Google dtd 12 May 23
(2) Application for Warrant (DD Form 3057) ICO AT&T dtd 12 May 23
(3) Draft Warrant (DD Form 3056) ICO Google
(4) Draft Warrant (DD Form 3056) ICO AT&T
(5) NCIS Special Agent Anthony Golt Affidavit ISO Warrant Application ICO Google
(6) NCIS Special Agent Anthony Golt Affidavit ISO Warrant Application ICO AT&T

1. Pursuant to references (a) and (b), the Government respectfully requests this Court issue warrants for the search of Captain Douglas J. Alvey's AT&T and Google electronic communications and data as set forth in the enclosures.
2. These are the second and third warrants the Government seeks in this case.
3. Point of contact is the undersigned at 401-486-1574 or thomas.sommer@usmc.mil.

SOMMER.THOMAS

Digitally signed by
SOMMER.THOMAS.JOHN

JOHN

Date: 2023.05.12 13:10:35 -07'00'

Thomas J. Sommer

First Lieutenant, U.S. Marine Corps

I certify that I have served a true copy (via email and the Judicial SharePoint site) of the above on the Duty Military Judge and the Clerk of Court on 12 May 2023.

SOMMER.THOMAS

Digitally signed by
SOMMER.THOMAS.JOHN

JOHN

Date: 2023.05.12 13:10:51 -07'00'

Thomas J. Sommer

First Lieutenant, U.S. Marine Corps

**NAVY-MARINE CORPS TRIAL JUDICIARY
WESTERN JUDICIAL CIRCUIT**

IN THE MATTER OF THE SEARCH OF
INFORMATION ASSOCIATED WITH THE
GOOGLE ACCOUNTS

AlveyDJ12@gmail.com AND
fitnfun121212@gmail.com, BELIEVED TO BE
ASSOCIATED WITH CAPTAIN DOUGLAS J.
ALVEY, U.S. MARINE CORPS, AND WHICH
IS STORED AT PREMISES OWNED,
MAINTAINED, CONTROLLED, OR
OPERATED BY GOOGLE LLC AT 2710
GATEWAY OAKS DRIVE, SUITE 150N,
SACRAMENTO, CA 95833

Case No. 26Apr23-NEEA-00059-8EMA

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Anthony Golt, being duly sworn, depose and say:

1. I am a Special Agent with the Department of the Navy, Naval Criminal Investigative Service ("NCIS"), an investigative branch of the United States Department of the Navy. I am a federal law enforcement officer authorized by the Secretary of the Navy to request the issuance of search warrants. I have been employed as a Special Agent for NCIS for approximately five years and am currently assigned to the NCIS Resident Agency office at Naval Weapons Station ("NWS") Earle in Colts Neck, NJ. I hold a Bachelor of Science in Business from Montana State University, Bozeman, Montana.

2. I make this affidavit in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Google to disclose to the government records and other information, including the contents of communications and the

content of any account at Google Drive, associated with the following email addresses: **AlveyDJ12@gmail.com** and **fitnfun121212@gmail.com**, stored at premises owned, maintained, controlled, or operated by Google LLC at 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833. The information to be disclosed by Google and searched by the government is described in the following paragraphs and in Attachments A and B. From the evidence set forth below, there is probable cause to believe that within these accounts there will be found evidence of the commission of violations of Uniform Code of Military Justice (UCMJ) Article 80, Attempts; Article 120b, Sexual Abuse of a Child Involving Indecent Communication; Article 134, Indecent Language; and Article 133, Conduct Unbecoming of an Officer and a Gentleman and Article 134, Soliciting and Possessing Child Pornography.

3. Because this affidavit is submitted for the limited purpose of securing the requested search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to establish probable cause.

THE INVESTIGATION AND PROBABLE CAUSE

4. On 06APR23, NCIS was contacted by Daniel ANFANG, CIV, Detective Lieutenant, Rockland County District Attorney's Office (RCDAO), 1 South Main Street, Suite 500, New City, New York (NY) 10956, regarding a United State Marine having sexual conversations with an undercover RCDAO Investigator, Debbie MONAHAN, CIV, portraying herself online as a 13 year old female. The communications originated from cell phone number (443) 307-1291. A review of Department of Defense records reveal the aforementioned cell phone belonging to Captain (Capt.) Douglas James ALVEY, USMC, 7th Engineer Support

Battalion (7th ESB), 1st Marine Logistics Group (1st MLG), Marine Corps Base (MCB) Camp Pendleton, California (CA) (hereafter SUBJECT).

5. A search of public records by RCDAO for telephone number (443) 307-1291 revealed the number belonged to the SUBJECT. SUBJECT expressed an interest to travel to Rockland, NY to meet the alleged 13 year old on 11APR23 for the purpose of engaging in sexual activity. SUBJECT did not travel to Rockland County on 11APR23 and has ceased all communication with MONAHAN.

6. MONAHAN was initially contacted by the SUBJECT on the website Chat Avenue (<https://www.chat-avenue.com>). Chat Avenue is a web site that hosts several chat rooms and allows users to create profiles within the chat room. MONAHAN created a profile with the username "nicoleeexo" stating "13 f hmu if u from ny." MONAHAN created the profile in the "Teen Chat" chatroom, which is a chat room specifically designed for teenagers between the ages of 13 and 19. Based upon my training and experience I know that "13 f hmu if u from ny" means 13 year old Female hit me up if you are from NY. SUBJECT engaged in a chat with MONAHAN using the profile "fun athlete" beginning at 14:32 (Eastern Daylight Time) on 4APR23 by stating "Hey i am 18 m in ny, you?" Based upon my training and experience I know that 18 m means 18 year old male.

7. Chat-Avenue provided records showing user "fun athlete" was registered using an email address of **fitnfun121212@gmail.com**. Chat-Avenue also revealed "fun athlete" accessed the platform on 26APR23 using IP address 47.150.2.100. The aforementioned IP address is owned by Frontier Communications of America, Inc. (hereafter FRONTIER). FRONTIER provided subscriber data for the aforementioned IP address which indicates SUBJECT was

assigned the IP address, and SUBJECT'S residence, 32972 Valence Ct, Temecula, CA is the location for internet service tied to the IP address.

8. SUBJECT asks MONAHAN if she is single and she replies "yaaaa." SUBJECT says "Yeah id love to hangout with you, maybe go shopping or a movie or something." MONAHAN replies "that would be funnnn." MONAHAN and SUBJECT discuss a time when SUBJECT can come pick her up. SUBJECT suggest "Yeah, maybe some m9vie making out too haha." MONAHAN responds "oooo ;)." SUBJECT asks if that is okay and also if touching is okay. MONAHAN says "that's okkk."

9. MONAHAN says "well ive done a lil touchin before" "a lil on top." SUBJECT asks "On your chest?" SUBJECT says "How did you like that? What size are you?" MONAHAN responds "34 a" to which SUBJECT says "Nice, id love to touch on them too" "touch all over you in the movies." SUBJECT asks "Can I take your shirt and bra off too?" MONAHAN says "yaaaaa" and SUBJECT says "Nice, i will like them a lot" "You will get me very hard lol yes." MONAHAN then provides the SUBJECT with her phone number, (845)681-2731, for texting.

10. MONAHAN and SUBJECT exchanged numerous text messages from 04APR23 – 11APR23. Text messages sent by SUBJECT include "I kiss all over you" "Of course :) I'll be all over you in the movies" "You can take your shirt off for me too ;)." MONAHAN at one point says "i wont get preggo righ" and SUBJECT says "And no, only if I finish inside you and you aren't on bc" "OK, we will have to try and pull out then and cum somewhere else" "Lol up to you, I like to cum inside, depends where you want a mess on you" "Mm I'd be inside you right

this second of I was there with you” “Lol good, that makes me cum so hard ;)” “I can cover your mouth or put your face in the pillow while we do it.”

11. On 04APR23 – 05APR23, SUBJECT sent three photos of himself to MONAHAN. The three photos depict SUBJECT’S chest and face. In two of the photos, SUBJECT is bare-chested and in one photo SUBJECT is wearing a white t-shirt. The photos depict an individual consistent with SUBJECT’S official military photographs. The metadata on the photos revealed they were taken on 16JAN15 and 17JAN15 by a SAMSUNG-SM-G900A. SUBJECT would have been 24 years old at the time the pictures were taken.

12. On 3MAY23, SUBJECT was interviewed by NCIS. SUBJECT admitted to the aforementioned conversations with MONAHAN. SUBJECT also admitted to engaging in sexually explicit conversations over the previous year with “dozens” of minors, and at times requesting nude photographs of children. SUBJECT stated he conversed with minors, or individuals portraying themselves as minors, using the Chat-Avenue.com website as well as through text message on his phone. SUBJECT admitted to using the email address **fitnfun121212@gmail.com** for the purpose of establishing an account at Chat-Avenue.com and subsequently communicating with minors via Chat-Avenue.com. SUBJECT also admitted to maintaining **AlveyDJ12@gmail.com**. Furthermore, SUBJECT also admitted to sending images of his genitals to minors.

13. On 3MAY23, SUBJECT’S cell phone was seized pursuant to a Command Authorization for Search and Seizure. A preliminary review of the device identified the phone number previously identified as communicating with MONAHAN and identified by SUBJECT.

Additionally, the email address **AlveyDJ12@gmail.com** was found to be associated with the cellphone.

14. Subsequently on 3MAY23, SUBJECT'S vehicle was searched aboard MCB Camp Pendleton pursuant to a Command Authorization for Search and Seizure. During the search, a Lenovo Chromebook C340-11 was found concealed in the spare tire compartment of SUBJECT'S vehicle. Additionally, a black Samsung tablet was found inside of a black duffle bag located in the passenger compartment of the vehicle. Both devices were analyzed by a NCIS Digital Forensics Examiner and the email address **fitnfun121212@gmail.com** was found to be associated with both devices.

15. Based upon my training and experience, I know Chromebooks have limited storage, and rely on cloud based storage provided by services like Google Drive to store and access content used by the device.

16. Based upon my training and experience, I know cellphones utilize cloud based storage provided by services like Google Drive to store and access content used by the device.

17. Based on my training and experience, individuals who express a desire to engage in sexual acts with minors also access and obtain child sexual abuse material (CSAM). Based on my training and experience, it is probable SUBJECT'S electronic devices, as well as communications and data stored on Google, also contain CSAM.

18. Based on the facts described above, it is believed there is additional evidence pertinent to the investigation in the data held by Google, Inc, as more particularly described in Attachment B.

SERVICE AND EXECUTION

19. Under 18 U.S.C. § 2703(g), a law enforcement officer does not have to be present for either the service or the execution of the warrant. It is sufficient for us to service it by fax, email or regular mail upon Google. I request that Google be required to produce the electronic communications and other information identified in Attachment A hereto. Because Google is not aware of the facts of this investigation, its employees are not in a position to search for relevant evidence. In addition, requiring Google to perform the search would be a burden upon the company. If all Google is asked to do is produce all the files in the accounts, an employee can do that easily. Requiring Google employees to search the materials to determine what content is relevant would add to their burden.

20. I request that the Court authorize law enforcement agents to seize only those items identified in Attachment B from what is produced by Google pursuant to the search warrant. In reviewing these items, I will treat them in the same way as if I were searching a file cabinet for certain documents. Items will be scanned quickly to determine if they are relevant to my search. If they are, they will be read. If I determine that they are not relevant, I will put them aside without viewing them in full. This method is similar to what a law enforcement officer would do in the search of a filing cabinet or a seized computer.

21. Under 18 U.S.C. § 2703(b)(1)(A), notice to the customer subscriber is not required when the government obtains the contents of the electronic communications using a search warrant.

22. Under 18 U.S.C. §§ 2711(3) and 3127, this Court has the authority to issue the warrant directing Google to comply even though Google is not located in this district, because the Court has jurisdiction over the offense being investigated.

23. Google shall disclose responsive data, if any, by sending to Naval Criminal Investigative Service, Resident Agency Earle, NJ, ATTN: SA Anthony Golt using the US Postal Service or another courier service notwithstanding 18 U.S.C. 2252A or similar statute or code.

24. I also ask that the warrant direct Google to produce records and other information pertaining to these accounts. The government may obtain such records either by filing a motion under 18 U.S.C. § 2703(d), or by means of a search warrant under § 2703(c)(1)(A). Because I need a search warrant to obtain the electronic communications anyway, I am proceeding in the request for records by search warrant as well. The facts set forth above to show probable cause also constitute specific and articulable facts, showing that there are reasonable grounds to believe that the records and other information sought are relevant and material to an ongoing criminal investigation, as required by 18 U.S.C. § 2703(d).

CONCLUSION

25. Based upon the foregoing, there is probable cause to believe that evidence and instrumentalities of the Specified UCMJ Offenses will be found in the item identified in Attachment A. I respectfully request authority to search the aforementioned item and to seize all items listed in Attachment B, respectively, as evidence and instrumentalities of the Specified UCMJ Offenses.

[REDACTED]

Special Agent Anthony Golt
Department of the Navy
Naval Criminal Investigative Service

Sworn and subscribed to before me this 12th day of May, 2023.

SOMMER.THOMAS
.JOHN. Digitally signed by
SOMMER THOMAS JOHN
Date: 2023.05.12 13:02:06 -07'00'

1stLt Thomas J. Sommer, USMC
Trial Counsel, Trial Services Office

ATTACHMENT A-I
(To be served upon and complied with by Google LLC)
ITEMS TO BE SEARCHED

LOCATION TO BE SEARCHED:

Gmail.com accounts **AlveyDJ12@gmail.com** and Google accounts associated with this gmail.com account, located on the servers in the custody of Google LLC at 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833.

ITEMS TO BE SEIZED:

1. All e-mail and attachments (received, read, sent, deleted, draft, and unopened), whether in a mailbox or other storage location, stored files; sent or received between 1 April 2022 and 12 May 2023.
2. All content of any Google Drive account associated with the above email address.
3. Account history, profiles, IP connection logs from 1 April 2022 to 12 May 2023.
4. Saved search history and Chrome browsing history from 1 April 2022 to 12 May 2023.
5. All available log files showing dates, times and IP addresses for access to this account between 1 April 2022 and 12 May 2023.
6. Information concerning when and from what IP address the account was established.
7. Subscriber Information, including:
 1. Names (including subscriber names, user names, and screen names);
 2. Addresses (including mailing addresses, residential addresses, business addresses, and e-mail addresses);
 3. Local and long distance telephone connection records;
 4. Records of session times and durations;
 5. Length of service (including start date) and types of service utilized;
 6. Telephone or instrument numbers (including MAC addresses, Electronic Serial Numbers ("ESN"), Mobile Electronic Identity Numbers ("MEIN"),

Mobile Equipment Identifier (“MEID”), Mobile Identification Numbers (“MIN”), Subscriber Identity Modules (“SIM”), MSISDN, International Mobile Subscriber Identifiers (“IMSI”), or International Mobile Station Equipment Identities (“IMEI”));

7. Other subscriber numbers or identities (including temporarily assigned network addresses and registration Internet Protocol (“IP”) addresses);
8. Means and source of payment for such service (including any credit card or bank account number) and billing records.

ATTACHMENT A-II
Particular Things to be Seized

1. The contents of all files, documents, images, communications (sent and received), and opened and unopened e-mails in the accounts **AlveyDJ12@gmail.com** including any Google Drive account associated with this address, related to the possession, receipt or distribution of visual depictions of minors engaged in sexually explicit conduct, or pertaining to the sexual exploitation of minors.
2. Any evidence that would tend to show the true identities of the person(s) committing these offenses and of any coconspirators.
3. Account history, profiles, IP connection logs from 1 April 2022 to 12 May 2023.
4. Saved search history and Chrome browsing history from 1 April 2022 to 12 May 2023.
5. All available log files showing dates, times and IP addresses for access to this account from 1 April 2022 to 12 May 2023.
6. Information concerning when and from what IP address the account was established.
7. Subscriber information for the account.

ATTACHMENT B-I
(To be served upon and complied with by Google LLC)
ITEMS TO BE SEARCHED

LOCATION TO BE SEARCHED:

Gmail.com account **fitnfun121212@gmail.com** and Google accounts associated with this gmail.com account, located on the servers in the custody of Google LLC at 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833.

ITEMS TO BE SEIZED:

1. All e-mail and attachments (received, read, sent, deleted, draft, and unopened), whether in a mailbox or other storage location, stored files; sent or received between 1 April 2022 and 12 May 2023.
 2. All content of any Google Drive account associated with the above email address.
 3. Account history, profiles, IP connection logs from 1 April 2022 to 12 May 2023.
 4. Saved search history and Chrome browsing history from 1 April 2022 to 12 May 2023.
 5. All available log files showing dates, times and IP addresses for access to this account between 1 April 2022 and 12 May 2023.
-
1. Information concerning when and from what IP address the account was established.
 2. Subscriber Information, including:
 1. Names (including subscriber names, user names, and screen names);
 2. Addresses (including mailing addresses, residential addresses, business addresses, and e-mail addresses);
 3. Local and long distance telephone connection records;
 4. Records of session times and durations;
 5. Length of service (including start date) and types of service utilized;

6. Telephone or instrument numbers (including MAC addresses, Electronic Serial Numbers (“ESN”), Mobile Electronic Identity Numbers (“MEIN”), Mobile Equipment Identifier (“MEID”), Mobile Identification Numbers (“MIN”), Subscriber Identity Modules (“SIM”), MSISDN, International Mobile Subscriber Identifiers (“IMSI”), or International Mobile Station Equipment Identities (“IMEI”));
7. Other subscriber numbers or identities (including temporarily assigned network addresses and registration Internet Protocol (“IP”) addresses);
8. Means and source of payment for such service (including any credit card or bank account number) and billing records.

ATTACHMENT B-II
Particular Things to be Seized

1. The contents of all files, documents, images, communications (sent and received), and opened and unopened e-mails in the accounts **fitnfun121212@gmail.com** including any Google Drive account associated with this address, related to the possession, receipt or distribution of visual depictions of minors engaged in sexually explicit conduct, or pertaining to the sexual exploitation of minors.
2. Any evidence that would tend to show the true identities of the person(s) committing these offenses and of any coconspirators.
8. Account history, profiles, IP connection logs from 1 April 2022 to 12 May 2023.
9. Saved search history and Chrome browsing history from 1 April 2022 to 12 May 2023.
10. All available log files showing dates, times and IP addresses for access to this account from 1 April 2022 to 12 May 2023.
3. Information concerning when and from what IP address the account was established.
4. Subscriber information for the account.

Navy-Marine Corps Trial Judiciary / Western Judicial Circuit

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications and Information held by AT&T

Case Identifier: 26Apr23-NEEA-00059-8EMA

Search and Seizure Warrant Pursuant to 18 U.S.C. § 2703

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following property located at *(identify the electronic communications or remote computing service or describe the property to be searched and give its location)*:

Stored electronic communications and information in the possession of AT&T Inc. ("AT&T"), an electronic communication service company headquartered in Dallas, TX, and which stores data at 11760 US Highway 1, Suite 300, North Palm Beach, FL 33408, associated with the phone number (443) 307-1291, registered and used by Captain Douglas Alvey, U.S. Marine Corps. Such electronic communications and information includes the content and the logs, including sender, receipt, date, and time, of the text messages and phone calls between Captain Douglas Alvey and any other parties from 1 April 2022 to 12 May 2023.

I find that the affidavit(s) and/or sworn testimony establish probable cause to search and seize the property described above, and that such search will reveal *(describe the property to be seized)*:

Stored electronic communications and information associated with the phone number (443) 307-1291, including the content and the logs, including sender, receipt, date, and time, of the text messages and phone calls between Captain Douglas Alvey and any other parties from 1 April 2022 to 12 May 2023.

YOU ARE COMMANDED to execute this warrant on or before _____

(not to exceed 14 days)

The officer executing this warrant must prepare an inventory as required by law and promptly return this warrant and inventory to

Lieutenant Colonel Derek A. Poteet, U.S. Marine Corps, Military Judge

Rank and name of military judge

Date and time issued: _____ hours Lieutenant Colonel Derek A. Poteet, U.S. Marine Corps, Military Judge

Military judge's name and title

Marine Corps Base Camp Pendleton, California

Military installation or location:

Signature of military judge

Questions and requests for relief should be directed to:

Thomas

Sommer

First name

Last name

(760) 725-5058

thomas.sommer@usmc.mil

Phone number

E-mail address

Return

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications and Information held by AT&T, Inc.

Case Identifier: 26Apr23-NEEA-00059-8EMA

Date and time warrant executed:

Copy of warrant and inventory left with:

Inventory made in the presence of:

Certification

Inventory of the property taken:

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date:

Executing officer's signature

First name

Last name

Title

Navy-Marine Corps Trial Judiciary / Western Judicial Circuit

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications and Information held by AT&T

Case Identifier: 26Apr23-NEEA-00059-8EMA

Application for Search and Seizure Warrant Pursuant to 18 U.S.C. § 2703

I, a federal law enforcement officer or authorized counsel for the Government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following property (*identify the electronic communications or remote computing service or describe the property to be searched and give its location*):

Stored electronic communications and information, to include content, in the possession of AT&T Inc. ("AT&T"), an electronic communication service company headquartered in Dallas, TX, and which stores data at 11760 US Highway 1, Suite 300, North Palm Beach, FL 33408, associated with the phone number (443) 307-1291, registered and used by Captain Douglas Alvey, U.S. Marine Corps. Such electronic communications and information includes the content and the logs, including sender, receipt, date, and time, of the text messages and phone calls between Captain Douglas Alvey and any other parties from 1 April 2022 to 12 May 2023.

There is now concealed within the jurisdiction of a court of competent jurisdiction pursuant to 18 U.S.C. §2711(3)(C) and 10 U.S.C. 846(d) (3), (*identify the property or data to be seized*):

Electronic communications and information associated with the phone number (443) 307-1291, including the content, logs, sender, receipt, date, and time, of the text messages and phone calls between Such electronic communications and information includes the content and the logs, including sender, receipt, date, and time, of the text messages and phone calls between Captain Douglas Alvey and any other parties from 1 April 2022 to 12 May 2023.

The basis for the search is evidence of a crime.

10 U.S.C. § 920c, 933, 934

Indecent Communication with a Minor, Solicitation of Child Pornography

The search is related to a violation of:
(Insert code or UCMJ section)

Offense description:
(Title of the offense)

The application is based on these facts (*list the pertinent facts here or refer to an attachment*):

See attached Affidavit of Special Agent Anthony Golt, NCIS, dated 12 May 2023.

☐ Continued on the attached sheet

First Lieutenant Thomas J. Sommer, U.S. Marine Corps

Applicant's printed name and title

☐ Non-disclosure Order Requested

SOMMER.THOMAS.JOHN [Redacted] Digitally signed by SOMMER.THOMAS.JOHN [Redacted]
Date: 2023.05.12 13:11:32 -07'00'

Applicant's signature

Sworn to before me, a person authorized to administer oaths under 10 U.S.C. § 936

Lieutenant Colonel Derek A. Poteet, U.S. Marine Corps, Military Judge

Date

Printed name and title of military judge or other official administering oath

Marine Corps Base Camp Pendleton, California

Military installation or location

Signature of official administering oath

Navy-Marine Corps Trial Judiciary / Western Judicial Circuit

In the Matter of the Search of
(Briefly describe the property to be searched):

Case Identifier: 26Apr23-NEEA-00059-8EMA

Stored Electronic Communications and Information held by Google

Search and Seizure Warrant Pursuant to 18 U.S.C. § 2703

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following property located at *(identify the electronic communications or remote computing service or describe the property to be searched and give its location)*:

Stored electronic communications and information in the possession of Google LLC ("Google"), an electronic communication service company headquartered in Mountain View, CA, and which stores data in the possession of Corporation Service Company, 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833, associated with the following email addresses: AlveyDJ12@gmail.com and fitfun121212@gmail.com, believed to be registered to and used by Captain Douglas Alvey, U.S. Marine Corps. Such electronic communications and information includes the content and the logs, including sender, receipt, date, and time, of email messages and any content stored in Google Docs, Google Drive, and any other cloud service program operated by Google, from 1 April 2022 to 12 May 2023.

I find that the affidavit(s) and/or sworn testimony establish probable cause to search and seize the property described above, and that such search will reveal *(describe the property to be seized)*:

Stored electronic communications and information associated with the email addresses AlveyDJ12@gmail.com and fitfun121212@gmail.com. Such electronic communications and information includes the content and the logs, including sender, receipt, date, and time, of email messages sent between each named email address and any other email addresses; any content stored in Google Docs, Google Drive, and any other cloud service program operated by Google, from 1 April 2022 to 12 May 2023; and the subscriber data associated with each address.

YOU ARE COMMANDED to execute this warrant on or before _____

(not to exceed 14 days)

The officer executing this warrant must prepare an inventory as required by law and promptly return this warrant and inventory to

Lieutenant Colonel Derek A. Poteet, U.S. Marine Corps, Military Judge

Rank and name of military judge

Date and time issued: _____ hours Lieutenant Colonel Derek A. Poteet, U.S. Marine Corps, Military Judge

Military judge's name and title

Marine Corps Base Camp Pendleton, California

Military installation or location:

Signature of military judge

Questions and requests for relief should be directed to:

Thomas

Sommer

First name

Last name

(760) 725-5058

thomas.sommer@usmc.mil

Phone number

E-mail address

Return

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications and Information held by AT&T, Inc.

Case Identifier: 26Apr23-NEEA-00059-8EMA

Date and time warrant executed:

Copy of warrant and inventory left with:

Inventory made in the presence of:

Certification

Inventory of the property taken:

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date:

Executing officer's signature

First name

Last name

Title

Navy-Marine Corps Trial Judiciary / Western Judicial Circuit

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications and Information held by Google

Case Identifier: 26Apr23-NEEA-00059-8EMA

Application for Search and Seizure Warrant Pursuant to 18 U.S.C. § 2703

I, a federal law enforcement officer or authorized counsel for the Government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following property (*identify the electronic communications or remote computing service or describe the property to be searched and give its location*):

Stored electronic communications and information in the possession of Google LLC ("Google"), an electronic communication service company headquartered in Mountain View, CA, and which stores data in the possession of Corporation Service Company, 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833, associated with the following email addresses: AlveyDJ12@gmail.com and fitfun121212@gmail.com, believed to be registered to and used by Captain Douglas Alvey, U.S. Marine Corps. Such electronic communications and information includes the content and the logs, including sender, receipt, date, and time, of email messages and any content stored in Google Docs, Google Drive, and any other cloud service program operated by Google, from 1 April 2022 to 12 May 2023; and the subscriber data associated with each address.

There is now concealed within the jurisdiction of a court of competent jurisdiction pursuant to 18 U.S.C. §2711(3)(C) and 10 U.S.C. 846(d) (3), (*identify the property or data to be seized*):

Stored electronic communications and information associated with the email addresses AlveyDJ12@gmail.com and fitfun121212@gmail.com. Such electronic communications and information includes the content and the logs, including sender, receipt, date, and time, of email messages sent between each named email address and any other email addresses; any content stored in Google Docs, Google Drive, and any other cloud service program operated by Google, from 1 April 2022 to 12 May 2023; and the subscriber data associated with each address.

The basis for the search is evidence of a crime.

10 U.S.C. § 920b, 933, 934

Indecent Communication with a Minor, Solicitation of Child Pornography

The search is related to a violation of:
(Insert code or UCMJ section)

Offense description:
(Title of the offense)

The application is based on these facts (*list the pertinent facts here or refer to an attachment*):

See attached Affidavit of Special Agent Anthony Golt, NCIS, dated 12 May 2023.

First Lieutenant Thomas J. Sommer, U.S. Marine Corps

☐ Continued on the attached sheet

Applicant's printed name and title

☐ Non-disclosure Order Requested

SOMMER.THOMAS.JOHN

Digitally signed by SOMMER.THOMAS.JOHN
Date: 2023.05.12 13:11:57 -0700

Applicant's signature

Sworn to before me, a person authorized to administer oaths under 10 U.S.C. § 936

Lieutenant Colonel Derek A. Poteet, U.S. Marine Corps, Military Judge

Date

Printed name and title of military judge or other official administering oath

Marine Corps Base Camp Pendleton, California

Military installation or location

Signature of official administering oath

**NAVY-MARINE CORPS TRIAL JUDICIARY
WESTERN JUDICIAL CIRCUIT**

IN THE MATTER OF THE SERACH OF
INFORMATION ASSOCIATED WITH THE
PHONE NUMBER (443) 307-1291,
BELONGING TO CAPTAIN DOUGLAS J.
ALVEY, U.S. MARINE CORPS, AND WHICH
IS STORED AT PREMISES OWNED,
MAINTAINED, CONTROLLED, OR
OPERATED BY AT&T, INC. AT 1760 US
HIGHWAY 1, SUITE 300, NORTH PALM
BEACH, FL 33408

Case No. 26Apr23-NEEA-00059-8EMA

I, Anthony Golt, being duly sworn, depose and say:

1. I am a Special Agent with the Department of the Navy, Naval Criminal Investigative Service ("NCIS"), an investigative branch of the United States Department of the Navy. I am a federal law enforcement officer authorized by the Secretary of the Navy to request the issuance of search warrants. I have been employed as a Special Agent for NCIS for approximately five years and am currently assigned to the NCIS Resident Agency office at Naval Weapons Station ("NWS") Earle in Colts Neck, NJ. I hold a Bachelor of Science in Business from Montana State University, Bozeman, Montana.

2. I make this affidavit in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require AT&T to disclose to the government records and other information, including the contents of communications and location information, associated with the phone number (443) 307-1291 that is stored at premises owned, maintained, controlled, or operated by AT&T, a company headquartered at 11760 US Highway 1, Suite 300, North Palm Beach, FL 33408. The information to be disclosed by AT&T and searched by the government is described in the following paragraphs and in Attachments A

and B. From the evidence set forth below, there is probable cause to believe that within these accounts there will be found evidence of the commission of violations of Uniform Code of Military Justice (UCMJ) Article 80, Attempts; Article 120b, Sexual Abuse of a Child Involving Indecent Communication; Article 134, Indecent Language; Article 134, Child Pornography; and Article 133, Conduct Unbecoming of an Officer and a Gentleman.

3. Because this affidavit is submitted for the limited purpose of securing the requested search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to establish probable cause.

THE INVESTIGATION AND PROBABLE CAUSE

4. On 06APR23, NCIS was contacted by Daniel ANFANG, CIV, Detective Lieutenant, Rockland County District Attorney's Office (RCDAO), 1 South Main Street, Suite 500, New City, New York (NY) 10956, regarding a United State Marine having sexual conversations with an undercover RCDAO Investigator, Debbie MONAHAN, CIV, portraying herself online as a 13 year old female. The communications originated from cell phone number (443) 307-1291. A review of Department of Defense records reveal the aforementioned cell phone belonging to Captain (Capt.) Douglas James ALVEY, USMC, 7th Engineer Support Battalion (7th ESB), 1st Marine Logistics Group (1st MLG), Marine Corps Base (MCB) Camp Pendleton, California (CA) (hereafter SUBJECT).

5. A search of public records by RCDAO for telephone number (443) 307-1291 revealed the number belonged to the SUBJECT. SUBJECT expressed an interest to travel to Rockland, NY to meet the alleged 13 year old on 11APR23 for the purpose of engaging in sexual

activity. SUBJECT did not travel to Rockland County on 11APR23 and has ceased all communication with MONAHAN.

6. MONAHAN was initially contacted by the SUBJECT on the website Chat Avenue (<https://www.chat-avenue.com>). Chat Avenue is a web site that hosts several chat rooms and allows users to create profiles within the chat room. MONAHAN created a profile with the username “nicoleeexo” stating “13 f hmu if u from ny.” MONAHAN created the profile in the “Teen Chat” chatroom, which is a chat room specifically designed for teenagers between the ages of 13 and 19. Based upon my training and experience I know that “13 f hmu if u from ny” means 13 year old Female hit me up if you are from NY. SUBJECT engaged in a chat with MONAHAN using the profile “fun athlete” beginning at 14:32 (Eastern Daylight Time) on 4APR23 by stating “Hey i am 18 m in ny, you?” Based upon my training and experience I know that 18 m means 18-year-old male.

7. Chat-Avenue provided records showing user “fun athlete” accessed the platform on 26APR23 using IP address 47.150.2.100. The aforementioned IP address is owned by Frontier Communications of America, Inc. (hereafter FRONTIER). FRONTIER provided subscriber data for the aforementioned IP address which indicates SUBJECT was assigned the IP address, and SUBJECTS residence, 32972 Valence Ct, Temecula, CA is the location for internet service tied to the IP address.

8. SUBJECT asks MONAHAN if she is single and she replies “yaaaa.” SUBJECT says “Yeah id love to hangout with you, maybe go shopping or a movie or something.” MONAHAN replies “that would be funnnn.” MONAHAN and SUBJECT discuss a time when SUBJECT can come pick her up. SUBJECT suggest “Yeah, maybe some m9vie making out too

haha.” MONAHAN responds “oooo ;).” SUBJECT asks if that is okay and also if touching is okay. MONAHAN says “that’s okkk.”

9. MONAHAN says “well ive done a lil touchin before” “a lil on top.” SUBJECT asks “On your chest?” SUBJECT says “How did you like that? What size are you?” MONAHAN responds “34 a” to which SUBJECT says “Nice, id love to touch on them too” “touch all over you in the movies.” SUBJECT asks “Can I take your shirt and bra off too?” MONAHAN says “yaaaaa” and SUBJECT says “Nice, i will like them a lot” “You will get me very hard lol yes.” MONAHAN then provides the SUBJECT with her phone number, (845)681-2731, for texting.

10. MONAHAN and SUBJECT exchanged numerous text messages from 04APR23 – 11APR23. Text messages sent by SUBJECT include “I kiss all over you” “Of course :) I’ll be all over you in the movies” “You can take your shirt off for me too ;).” MONAHAN at one point says “i wont get preggo right” and SUBJECT says “And no, only if I finish inside you and you aren’t on bc” “OK, we will have to try and pull out then and cum somewhere else” “Lol up to you, I like to cum inside, depends where you want a mess on you” “Mm I’d be inside you right this second of I was there with you” “Lol good, that makes me cum so hard ;)” “I can cover your mouth or put your face in the pillow while we do it.”

11. On 04APR23 – 05APR23, SUBJECT sent three photos of himself to MONAHAN. The three photos depict SUBJECTS chest and face. In two of the photos, SUBJECT is bare-chested and in one photo SUBJECT is wearing a white t-shirt. The photos depict an individual consistent with SUBJECT’S official military photographs. The metadata on

the photos revealed they were taken on 16JAN15 and 17JAN15 by a SAMSUNG-SM-G900A. SUBJECT would have been 24 years old at the time the pictures were taken.

12. On 3MAY23, SUBJECT was interviewed by NCIS. SUBJECT admitted to the aforementioned conversations with MONAHAN. SUBJECT also admitted to engaging in sexually explicit conversations over the previous year with “dozens” of minors as young as 13-years-old, and at times requesting nude photographs of children. SUBJECT stated he conversed with minors using the Chat-Avenue.com website as well as through text message on his phone.

13. SUBJECT admitted to conversing with minors that he met on Chat-Avenue.com since at least April 2022.

14. The cell phone is likely to contain messages between SUBJECT and minors, children, and/or other individuals that SUBJECT believed to be minors and children and with whom he engaged in sexually charged conversations. Based on my training and experience, individuals who express a desire to engage in sexual acts with minors also access and obtain child sexual abuse material (CSAM). Based on my training and experience, it is probable SUBJECT’S phone and other electronic devices also contain CSAM.

15. Based on the facts described above, it is believed there is additional evidence pertinent to the investigation in the data held by AT&T, as more particularly described in Attachment B.

SERVICE AND EXECUTION

16. Under 18 U.S.C. § 2703(g), a law enforcement officer does not have to be present for either the service or the execution of the warrant. It is sufficient for us to service it by fax, email or regular mail upon AT&T. I request that AT&T be required to produce the electronic

communications and other information identified in Attachment A hereto. Because AT&T is not aware of the facts of this investigation, its employees are not in a position to search for relevant evidence. In addition, requiring AT&T to perform the search would be a burden upon the company. If all AT&T is asked to do is produce all the files in the accounts, an employee can do that easily. Requiring AT&T employees to search the materials to determine what content is relevant would add to their burden.

17. I request that the Court authorize law enforcement agents to seize only those items identified in Attachment B from what is produced by AT&T pursuant to the search warrant. In reviewing these items, I will treat them in the same way as if I were searching a file cabinet for certain documents. Items will be scanned quickly to determine if they are relevant to my search. If they are, they will be read. If I determine that they are not relevant, I will put them aside without viewing them in full. This method is similar to what a law enforcement officer would do in the search of a filing cabinet or a seized computer.

18. Under 18 U.S.C. § 2703(b)(1)(A), notice to the customer subscriber is not required when the government obtains the contents of the electronic communications using a search warrant.

19. Under 18 U.S.C. §§ 2711(3) and 3127, this Court has the authority to issue the warrant directing AT&T to comply even though AT&T is not located in this district, because the Court has jurisdiction over the offense being investigated.

20. AT&T shall disclose responsive data, if any, by sending to Naval Criminal Investigative Service, Resident Agency Earle, NJ, ATTN: SA Anthony Golt using the US Postal Service or another courier service.

21. I also ask that the warrant direct AT&T to produce records and other information pertaining to these accounts. The government may obtain such records either by filing a motion under 18 U.S.C. § 2703(d), or by means of a search warrant under § 2703(c)(1)(A). Because I need a search warrant to obtain the electronic communications anyway, I am proceeding in the request for records by search warrant as well. The facts set forth above to show probable cause also constitute specific and articulable facts, showing that there are reasonable grounds to believe that the records and other information sought are relevant and material to an ongoing criminal investigation, as required by 18 U.S.C. § 2703(d).

CONCLUSION

22. Based upon the foregoing, there is probable cause to believe that evidence and instrumentalities of the Specified UCMJ Offenses will be found in the item identified in Attachment A. I respectfully request authority to search the aforementioned item and to seize all items listed in Attachment B, respectively, as evidence and instrumentalities of the Specified UCMJ Offenses.

[REDACTED]
Special Agent Anthony Golt
Department of the Navy
Naval Criminal Investigative Service

Sworn and subscribed to before me this 12th day of May, 2023.

SOMMER.THOMAS
.JOHN [REDACTED]
Digitally signed by SOMMER.THOMAS.JOHN [REDACTED]
Date: 2023.05.12 13:00:49 -07'00'

1stLt Thomas J. Sommer, USMC
Trial Counsel, Trial Services Office

ATTACHMENT A
(To be served upon and complied with by AT&T.)
ITEMS TO BE SEARCHED

PROPERTY TO BE SEARCHED:

This warrant applies to information associated with the following AT&T identifiers:

Phone Number: +1(443) 307-1291

which is stored at premises owned, maintained, controlled, or operated by AT&T, a company headquartered at 11760 US Hwy 1, Suite 300, North Palm Beach, FL 33408.

ATTACHMENT B - I
Particular Things to be Seized

I. Information to be disclosed by AT&T

To the extent that the information described in Attachment A is within the possession, custody, or control of AT&T, including any messages, records, files, logs, or information that have been deleted but are still available to AT&T, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), AT&T is required to disclose the following information to the government, in unencrypted form whenever available, for each account or identifier listed in Attachment A:

1. All records or other information regarding the identification of the account, to include full name, physical address, telephone numbers, email addresses (including primary, alternate, rescue, and notification email addresses, and verification information for each email address), the date on which the account was created, the length of service, the IP address used to register the account, account status, methods of connecting, and means and source of payment (including any credit or bank account numbers);

2. All records or other information regarding the devices associated with, or used in connection with, the account (including all current and past trusted or authorized devices and computers, and any devices used to access Snapchat services), including serial numbers, Unique Device Identifiers (“UDID”), Advertising Identifiers (“IDFA”), Global Unique Identifiers (“GUID”), Media Access Control (“MAC”) addresses, Integrated Circuit Card ID numbers (“ICCID”), Electronic Serial Numbers (“ESN”), Mobile Electronic Identity Numbers (“MEIN”), Mobile Equipment Identifiers (“MEID”), Mobile Identification Numbers (“MIN”), Subscriber Identity Modules (“SIM”), Mobile Subscriber Integrated Services Digital Network Numbers (“MSISDN”), International Mobile Subscriber Identities (“IMSI”), and International Mobile Station Equipment Identities (“IMEI”);

3. The contents of all messages associated with the account sent and/or received between April 1, 2022 and April 26, 2023, including stored or preserved copies of messages sent to and from the account (including all draft and deleted messages), the source and destination account or phone number associated with each message, the date and time at which each message was sent, the size and length of each message, the actual IP addresses of the sender and the recipient of each message, and the media, if any, attached to each message;

4. The contents of all files and other records stored on AT&T;

5. All records pertaining to the types of service used; and
6. All records pertaining to communications between AT&T and any person regarding the account, including contacts with support services and records of actions taken.

Navy-Marine Corps Trial Judiciary / Western Judicial Circuit

In the Matter of the Search of
(Briefly describe the property to be searched):

Case Identifier: 26Apr23-NEEA-00059-8EMA

Stored E-Comm and Information held by AT&T RE # (443) 307-1291

Search and Seizure Warrant Pursuant to 18 U.S.C. § 2703

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following property located at (*identify the electronic communications or remote computing service or describe the property to be searched and give its location*):

Stored electronic communications and information, to include content, in the possession of AT&T Inc. ("AT&T"), an electronic communication service company headquartered in Dallas, TX, and which stores data at 11760 US Highway 1, Suite 300, North Palm Beach, FL 33408, associated with the phone number (443) 307-1291 and believed to be registered and to be used by Captain Douglas Alvey, U.S. Marine Corps. Such electronic communications and information includes the content and the logs, including sender, receipt, date, and time, of the text messages and phone calls between Captain Douglas Alvey and Debbie Monohan between 4 April 2023 and 26 April 2023, and records and information regarding locations where the account/phone number was accessed, including all data stored in connection with Location Services, between 4 April 2023 and 26 April 2023.

I find that the affidavit(s) and/or sworn testimony establish probable cause to search and seize the property described above, and that such search will reveal (*describe the property to be seized*):

Electronic communications and information associated with the phone number (443) 307-1291, including the content, logs, sender, receipt, date, and time, of the text messages and phone calls between Captain Douglas Alvey and Debbie Monohan between 4 April 2023 and 26 April 2023, and records and information regarding locations where the account/phone number was accessed, including all data stored in connection with Location Services, between 4 April 2023 and 26 April 2023.

YOU ARE COMMANDED to execute this warrant on or before

12 May 2023

(not to exceed 14 days)

The officer executing this warrant must prepare an inventory as required by law and promptly return this warrant and inventory to

Colonel Yong J. Lee, U.S. Marine Corps, Military Judge

Rank and name of military judge

Date and time issued: 20230428 1638 hours

Colonel Yong J. Lee, U.S. Marine Corps, Military Judge

Military judge's name and title

Marine Corps Base Camp Pendleton, California

LEE.YONG.JOON

Digitally signed by LEE.YONG.JOON
Date: 2023.04.28 16:38:21 -0700

Military installation or location:

Military judge

Questions and requests for relief should be directed to:

First name

Last name

Phone number

E-mail address

Return

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications and Information held by AT&T, Inc.

Case Identifier: 26Apr23-NEEA-00059-8EMA

Date and time warrant executed:

Copy of warrant and inventory left with:

Inventory made in the presence of:

Certification

Inventory of the property taken:

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date:

Executing officer's signature

First name

Last name

Title

Navy-Marine Corps Trial Judiciary / Western Judicial Circuit

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications and Information held by AT&T

Case Identifier: 26Apr23-NEEA-00059-8EMA

Search and Seizure Warrant Pursuant to 18 U.S.C. § 2703

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following property located at (identify the electronic communications or remote computing service or describe the property to be searched and give its location):

Stored electronic communications and information in the possession of AT&T Inc. ("AT&T"), an electronic communication service company headquartered in Dallas, TX, and which stores data at 11760 US Highway 1, Suite 300, North Palm Beach, FL 33408, associated with the phone number (443) 307-1291, registered and used by Captain Douglas Alvey, U.S. Marine Corps. Such electronic communications and information includes the content and the logs, including sender, receipt, date, and time, of the text messages and phone calls between Captain Douglas Alvey and any other parties from 1 April 2022 to 12 May 2023.

I find that the affidavit(s) and/or sworn testimony establish probable cause to search and seize the property described above, and that such search will reveal (describe the property to be seized):

Stored electronic communications and information associated with the phone number (443) 307-1291, including the content and the logs, including sender, receipt, date, and time, of the text messages and phone calls between Captain Douglas Alvey and any other parties from 1 April 2022 to 12 May 2023.

YOU ARE COMMANDED to execute this warrant on or before 26 May 2023

(not to exceed 14 days)

The officer executing this warrant must prepare an inventory as required by law and promptly return this warrant and inventory to

Lieutenant Colonel Derek A. Poteet, U.S. Marine Corps, Military Judge

Rank and name of military judge

Date and time issued: 20230512 1822 hours Lieutenant Colonel Derek A. Poteet, U.S. Marine Corps, Military Judge

Military judge's name and title

Marine Corps Base Camp Pendleton, California

POTEET.DEREK.ANDREW  Digitally signed by POTEET.DEREK.ANDREW.
Date: 2023.05.12 18:23:45 -07'00'

Military installation or location:

Signature of military judge

Questions and requests for relief should be directed to:

Thomas

Sommer

First name

Last name

(760) 725-5058

thomas.sommer@usmc.mil

Phone number

E-mail address

Return

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications and Information held by AT&T, Inc.

Case Identifier: 26Apr23-NEEA-00059-8EMA

Date and time warrant executed:

Copy of warrant and inventory left with:

Inventory made in the presence of:

Certification

Inventory of the property taken:

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date:

Executing officer's signature

First name

Last name

Title

Navy-Marine Corps Trial Judiciary / Western Judicial Circuit

In the Matter of the Search of
(Briefly describe the property to be searched):

Case Identifier: 26Apr23-NEEA-00059-8EMA

Stored Electronic Communications and Information held by Google

Search and Seizure Warrant Pursuant to 18 U.S.C. § 2703

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following property located at (identify the electronic communications or remote computing service or describe the property to be searched and give its location):

Stored electronic communications and information in the possession of Google LLC ("Google"), an electronic communication service company headquartered in Mountain View, CA which stores data at 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833, associated with the following email addresses and accounts from 1 April 2022 to 12 May 2023: "AlveyDJ12@gmail.com" and "fitnfun121212@gmail.com" believed to be registered to or used by Douglas Alvey, Captain, U.S. Marine Corps. This includes but is not limited to the content, metadata, subscriber information, and logs with IP addresses of activity and content during this time, sender, recipient, date, & time information of email and other messages and of content stored in Google Docs, Google Drive, and any other cloud service operated by Google.

I find that the affidavit(s) and/or sworn testimony establish probable cause to search and seize the property described above, and that such search will reveal (describe the property to be seized):

Stored electronic communications and information associated with the email addresses and accounts "AlveyDJ12@gmail.com" and "fitnfun121212@gmail.com" between 1 April 2022 and 12 May 2023, including the content and logs, including sender, receipt, date, and time, of email and other messages sent between each named email address and account and any other email addresses or accounts during this period; any content stored in Google Docs, Google Drive, and any other cloud service program operated by Google during this period; and the subscriber data associated with each address or account. There is probable cause to believe this will reveal evidence pertaining to violations of the Uniform Code of Military Justice (UCMJ) 10 U.S.C. §§ 801-941; specifically, violations of UCMJ Article 120b, Sexual Abuse of a Child Involving Indecent Communication; Article 134, Indecent Language; Article 133, Conduct Unbecoming of an Officer and a Gentleman; Article 134, Soliciting and Possessing Child Pornography; and Article 80, Attempts of the foregoing offenses.

YOU ARE COMMANDED to execute this warrant on or before

26 May 2023

(not to exceed 14 days)

The officer executing this warrant must prepare an inventory as required by law and promptly return this warrant and inventory to

Lieutenant Colonel Derek A. Poteet, U.S. Marine Corps, Military Judge

Rank and name of military judge

Date and time issued: 20230515 0912 hours

Lieutenant Colonel Derek A. Poteet, U.S. Marine Corps, Military Judge

Military judge's name and title

Marine Corps Base Camp Pendleton, California

POTEET.DEREK.ANDREW

Digitally signed by POTEET.DEREK.ANDREW.
Date: 2023.05.15 09:12:04 -07'00'

Military installation or location:

Signature of military judge

Questions and requests for relief should be directed to:

Thomas

Sommer

First name

Last name

(760) 725-5058

thomas.sommer@usmc.mil

Phone number

E-mail address

Return

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications and Information held by AT&T, Inc.

Case Identifier: 26Apr23-NEEA-00059-8EMA

Date and time warrant executed:

Copy of warrant and inventory left with:

Inventory made in the presence of:

Certification

Inventory of the property taken:

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date:

Executing officer's signature

First name

Last name

Title

Sommer Capt Thomas J

From: Sommer 1stLt Thomas J
Sent: Wednesday, June 14, 2023 3:13 PM
To: Goode LtCol Andrea C
Cc: Carter Capt Kadian D; Howell Cpl Caleb J
Subject: RE: (3/3) Pre-Referral Investigative Subpoena Requests ICO Capt D.J. Alvey for T-Mobile, Inland
Signed By: thomas.sommer@usmc.mil

Good afternoon, Your Honor,

Thank you, Your Honor. Received as to all six.

Very respectfully,

Thomas J. Sommer
First Lieutenant, U.S. Marine Corps
Trial Counsel - Case Screening Division (CSD)
Trial Services Organization (TSO)
Camp Pendleton, CA
760-725-0681 (office)
thomas.sommer@usmc.mil

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From: Goode LtCol Andrea C <andrea.c.goode1@usmc.mil>
Sent: Wednesday, June 14, 2023 3:09 PM
To: Sommer 1stLt Thomas J <thomas.sommer@usmc.mil>
Cc: Carter Capt Kadian D <kadian.carter@usmc.mil>; Howell Cpl Caleb J <caleb.howell@usmc.mil>
Subject: RE: (3/3) Pre-Referral Investigative Subpoena Requests ICO Capt D.J. Alvey for T-Mobile, Inland

5 and 6.

From: Sommer 1stLt Thomas J <thomas.sommer@usmc.mil>
Sent: Wednesday, June 14, 2023 1:25 PM
To: Goode LtCol Andrea C <andrea.c.goode1@usmc.mil>

Cc: Carter Capt Kadian D <kadian.carter@usmc.mil>; Howell Cpl Caleb J <caleb.howell@usmc.mil>
Subject: (3/3) Pre-Referral Investigative Subpoena Requests ICO Capt D.J. Alvey for T-Mobile, Inland

Good afternoon, Your Honor,

Please find attached for your consideration a request for two additional pre-referral investigative subpoenas pertaining Captain Douglas J. Alvey, U.S. Marine Corps. The Government has previously sought three pre-referral warrants in this case.

As noted in my earlier email, this is the last of three separate emails due to message size constraints. However, there is only one cover letter because the basis and nature of these investigative subpoenas is the same.

Thank you, Your Honor, and standing by for questions or concerns.

Very respectfully,

Thomas J. Sommer
First Lieutenant, U.S. Marine Corps
Trial Counsel - Case Screening Division (CSD)
Trial Services Organization (TSO)
Camp Pendleton, CA
760-725-0681 (office)
thomas.sommer@usmc.mil

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UNITED STATES OF AMERICA

SUBPOENA

Military Justice Proceeding

United States of America

V.

Captain Douglas J. Alvey, U.S. Marine Corps

Subject of Investigation / Accused

MCIO Case No. 26Apr23-NEEA-00059-8EMA (Optional)

SUBPOENA TO TESTIFY AND/OR TO PRODUCE OR PERMIT INSPECTION OF ITEMS

To: Apple Inc., 20705 Valley Green Drive, Cupertino, California, 95014

Name of person to whom this subpoena is directed

YOU ARE HEREBY COMMANDED, PURSUANT TO 10 U.S.C. §§ 846-47, TO DO THE FOLLOWING:

☐ 1. To appear personally on the following date, time and location:

to testify before:

- ☐ an individual designated to take your deposition
- ☐ a Court-Martial of the United States
- ☐ a court of inquiry

Date: 21 June 2023

Time: 1700 PDT

Location: Special Agent Noel Torres

NCIS Camp Pendleton

noel.torres@ncis.navy.mil

☒ 2. To produce the following items on the date and location listed: Basic subscriber data including but not limited to name, length of service, associated devices, and IP or physical address for the use of the following phone number: (315) 391-2314.☐ 3. To permit inspection and/or copying of the following items by the date and time listed:

Failure to appear and testify or to produce items as directed above is punishable by a fine of not more than \$1,000 or confinement for a period of not more than 30 days, or both, by the military judge (10 U.S.C. § 848). Failure to appear or produce items as directed above may also result in you being taken into custody and brought before the proceedings under a Warrant of Attachment (DD Form 454) Manual for Courts-Martial R.C.M. 703(g)(3)(H)(iv). Any person who refuses to appear, testify, or produce items as directed above is guilty of an offense against the United States and shall be tried on indictment or information in a United States district court (10 U.S.C. § 847).

Issued by Lieutenant Colonel Andrea C. Goode on June 14, 2023 as Military Judge

Name Date Issuing Authority

GOODE.ANDREA.CHAMPAGNE.112163995 Digitally signed by GOODE.ANDREA.CHAMPAGNE.112163995
Date: 2023.06.14 15:06:49 -0700

Signature of Issuing Authority

You may, before the time specified for compliance, request relief on the grounds that compliance is unreasonable or oppressive (R.C.M. 703(g)(3)(G)). Requests should be directed to:

First Lieutenant Thomas J. Sommer

401-486-1574; thomas.sommer@usmc.mil

Name, Phone Number and E-mail Address

This subpoena was requested by an official of the United States Government represented by First Lieutenant Thomas J. Sommer

Name of Government Counsel

401-486-1574; thomas.sommer@usmc.mil

Phone Number and E-mail Address of Government Counsel

CERTIFICATE OF SERVICE

Served on _____

Name of Person Served Signature Date

IF SERVICE IS REFUSED

By my signature below, I attest that I personally delivered a copy of this subpoena, on the date and at the time specified, to the person described on the "To" line above

Name of Server Signature Date and Time of Service

Phone Number and E-mail Address of Server

UNITED STATES OF AMERICA

SUBPOENA

Military Justice Proceeding

United States of America

v.

Captain Douglas J. Alvey, U.S. Marine Corps

Subject of Investigation / Accused

MCIO Case No. 26Apr23-NEEA-00059-8EMA (Optional)

SUBPOENA TO TESTIFY AND/OR TO PRODUCE OR PERMIT INSPECTION OF ITEMS

To: Google, LLC, 1600 Amphitheatre Parkway Mountain View, Mountain View, CA 94043

Name of person to whom this subpoena is directed

YOU ARE HEREBY COMMANDED, PURSUANT TO 10 U.S.C. §§ 846-47, TO DO THE FOLLOWING:

☐ 1. To appear personally on the following date, time and location:

to testify before:

- ☐ an individual designated to take your deposition
- ☐ a Court-Martial of the United States
- ☐ a court of inquiry

Date: 21 June 2023

Time: 1700 PDT

Location: Special Agent Noel Torres

NCIS Camp Pendleton

noel.torres@ncis.navy.mil

☒ 2. To produce the following items on the date and location listed: Basic subscriber data including name, length of service, and IP address for the following accounts: ainsleylyons7@gmail.com, itsjustsarah86@gmail.com, mandygrl69@gmail.com, ikoppenhaver7@gmail.com, marielygurl7@gmail.com, emilysparkles1093@gmail.com, 01samwils08@gmail.com, jaelynfl2312008@gmail.com, and jennf0001@gmail.com.
☐ 3. To permit inspection and/or copying of the following items by the date and time listed:

Failure to appear and testify or to produce items as directed above is punishable by a fine of not more than \$1,000 or confinement for a period of not more than 30 days, or both, by the military judge (10 U.S.C. § 848). Failure to appear or produce items as directed above may also result in you being taken into custody and brought before the proceedings under a Warrant of Attachment (DD Form 454) Manual for Courts-Martial R.C.M. 703(g)(3)(H)(iv). Any person who refuses to appear, testify, or produce items as directed above is guilty of an offense against the United States and shall be tried on indictment or information in a United States district court (10 U.S.C. § 847).

Issued by Lieutenant Colonel Andrea C. Goode on June 14, 2023 as Military Judge

Name Date Issuing Authority

GOODE ANDREA CHAMPAGNE Digitally signed by GOODE ANDREA CHAMPAGNE
Date: 2023.06.14 15:04:55 -0700

Signature of Issuing Authority

You may, before the time specified for compliance, request relief on the grounds that compliance is unreasonable or oppressive (R.C.M. 703(g)(3)(G)). Requests should be directed to:

First Lieutenant Thomas J. Sommer

401-486-1574; thomas.sommer@usmc.mil

Name, Phone Number and E-mail Address

This subpoena was requested by an official of the United States Government represented by First Lieutenant Thomas J. Sommer

Name of Government Counsel

401-486-1574; thomas.sommer@usmc.mil

Phone Number and E-mail Address of Government Counsel

CERTIFICATE OF SERVICE

Served on _____

Name of Person Served Signature Date

IF SERVICE IS REFUSED

By my signature below, I attest that I personally delivered a copy of this subpoena, on the date and at the time specified, to the person described on the "To" line above

Name of Server

Signature

Date and Time of Service

Phone Number and E-mail Address of Server

UNITED STATES OF AMERICA

SUBPOENA

Military Justice Proceeding

United States of America

v.

Captain Douglas J. Alvey, U.S. Marine Corps

Subject of Investigation / Accused

MCIO Case No. 26Apr23-NEEA-00059-8EMA (Optional)

SUBPOENA TO TESTIFY AND/OR TO PRODUCE OR PERMIT INSPECTION OF ITEMS

To: Inland Cellular LLC, 1112 36th St. N. Lewiston, ID 83501

Name of person to whom this subpoena is directed

YOU ARE HEREBY COMMANDED, PURSUANT TO 10 U.S.C. §§ 846-47, TO DO THE FOLLOWING:

- ☐
1. To appear personally on the following date, time and location:

to testify before:

- ☐ an individual designated to take your deposition
- ☐ a Court-Martial of the United States
- ☐ a court of inquiry

Date: 21 June 2023

Time: 1700 PDT

Location: Special Agent Noel Torres

NCIS Camp Pendleton

noel.torres@ncis.navy.mil

- ☒ 2. To produce the following items on the date and location listed: Basic subscriber data including but not limited to name, length of service, associated devices, and IP or physical address for the use of the following phone number: (208) 935-5327.

- ☐ 3. To permit inspection and/or copying of the following items by the date and time listed:

Failure to appear and testify or to produce items as directed above is punishable by a fine of not more than \$1,000 or confinement for a period of not more than 30 days, or both, by the military judge (10 U.S.C. § 848). Failure to appear or produce items as directed above may also result in you being taken into custody and brought before the proceedings under a Warrant of Attachment (DD Form 454) Manual for Courts-Martial R.C.M. 703(g)(3)(H)(iv). Any person who refuses to appear, testify, or produce items as directed above is guilty of an offense against the United States and shall be tried on indictment or information in a United States district court (10 U.S.C. § 847).

Issued by Lieutenant Colonel Andrea C. Goode on June 14, 2023 as Military Judge

Name Date Issuing Authority

GOODE ANDREA.CHAMPAGNE Digitally signed by GOODE ANDREA.CHAMPAGNE
Date: 2023.06.14 15:07:52 -0700

Signature of Issuing Authority

You may, before the time specified for compliance, request relief on the grounds that compliance is unreasonable or oppressive (R.C.M. 703(g)(3)(G)). Requests should be directed to:

First Lieutenant Thomas J. Sommer

401-486-1574; thomas.sommer@usmc.mil

Name, Phone Number and E-mail Address

This subpoena was requested by an official of the United States Government represented by First Lieutenant Thomas J. Sommer

Name of Government Counsel

401-486-1574; thomas.sommer@usmc.mil

Phone Number and E-mail Address of Government Counsel

CERTIFICATE OF SERVICE

Served on _____

Name of Person Served Signature Date

IF SERVICE IS REFUSED

By my signature below, I attest that I personally delivered a copy of this subpoena, on the date and at the time specified, to the person described on the "To" line above

Name of Server

Signature

Date and Time of Service

Phone Number and E-mail Address of Server

UNITED STATES OF AMERICA

SUBPOENA

Military Justice Proceeding

United States of America

v.

Captain Douglas J. Alvey, U.S. Marine Corps

Subject of Investigation / Accused

MCIO Case No. 26Apr23-NEEA-00059-8EMA (Optional)

SUBPOENA TO TESTIFY AND/OR TO PRODUCE OR PERMIT INSPECTION OF ITEMS

To: Inteliquent, Inc., One North Wacker, Suite 1950, Chicago, IL 60606

Name of person to whom this subpoena is directed

YOU ARE HEREBY COMMANDED, PURSUANT TO 10 U.S.C. §§ 846-47, TO DO THE FOLLOWING:

☐ 1. To appear personally on the following date, time and location:

to testify before:

- ☐ an individual designated to take your deposition
- ☐ a Court-Martial of the United States
- ☐ a court of inquiry

Date: 21 June 2023

Time: 1700 PDT

Location: Special Agent Noel Torres

NCIS Camp Pendleton

noel.torres@ncis.navy.mil

☒ 2. To produce the following items on the date and location listed: Basic subscriber data including but not limited to name, length of service, associated devices, and IP or physical address for the use of the following phone numbers: (916) 259-7201, (708) 831-0964.☐ 3. To permit inspection and/or copying of the following items by the date and time listed:

Failure to appear and testify or to produce items as directed above is punishable by a fine of not more than \$1,000 or confinement for a period of not more than 30 days, or both, by the military judge (10 U.S.C. § 848). Failure to appear or produce items as directed above may also result in you being taken into custody and brought before the proceedings under a Warrant of Attachment (DD Form 454) Manual for Courts-Martial R.C.M. 703(g)(3)(H)(iv). Any person who refuses to appear, testify, or produce items as directed above is guilty of an offense against the United States and shall be tried on indictment or information in a United States district court (10 U.S.C. § 847).

Issued by Lieutenant Colonel Andrea C. Goode on June 14, 2023 as Military Judge

Name Date Issuing Authority

GOODE ANDREA CHAMPAGNE Digitally signed by GOODE ANDREA CHAMPAGNE
Date: 2023.06.14 15:06:23 -0700

Signature of Issuing Authority

You may, before the time specified for compliance, request relief on the grounds that compliance is unreasonable or oppressive (R.C.M. 703(g)(3)(G)). Requests should be directed to:

First Lieutenant Thomas J. Sommer
401-486-1574; thomas.sommer@usmc.mil
Name, Phone Number and E-mail Address

This subpoena was requested by an official of the United States Government represented by First Lieutenant Thomas J. Sommer
Name of Government Counsel

401-486-1574; thomas.sommer@usmc.mil

Phone Number and E-mail Address of Government Counsel

CERTIFICATE OF SERVICE

Served on _____
Name of Person Served Signature Date

IF SERVICE IS REFUSED

By my signature below, I attest that I personally delivered a copy of this subpoena, on the date and at the time specified, to the person described on the "To" line above

Name of Server

Signature

Date and Time of Service

Phone Number and E-mail Address of Server

UNITED STATES OF AMERICA

SUBPOENA

Military Justice Proceeding

United States of America

v.

Captain Douglas J. Alvey, U.S. Marine Corps

Subject of Investigation / Accused

MCIO Case No. 26Apr23-NEEA-00059-8EMA (Optional)

SUBPOENA TO TESTIFY AND/OR TO PRODUCE OR PERMIT INSPECTION OF ITEMS

To: T-Mobile US, Inc., 12920 SE 38th St., Bellevue, WA, 98006

Name of person to whom this subpoena is directed

YOU ARE HEREBY COMMANDED, PURSUANT TO 10 U.S.C. §§ 846-47, TO DO THE FOLLOWING:

☐ 1. To appear personally on the following date, time and location:

to testify before:

☐ an individual designated to take your deposition☐ a Court-Martial of the United States☐ a court of inquiry

Date:	21 June 2023
Time:	1700 PDT
Location:	Special Agent Noel Torres
	NCIS Camp Pendleton
	noel.torres@ncis.navy.mil

☒ 2. To produce the following items on the date and location listed: Basic subscriber data including but not limited to name, length of service, associated devices, and IP or physical address for the use of the following phone numbers: (405) 589-8501, (407) 764-0212.☐ 3. To permit inspection and/or copying of the following items by the date and time listed:

Failure to appear and testify or to produce items as directed above is punishable by a fine of not more than \$1,000 or confinement for a period of not more than 30 days, or both, by the military judge (10 U.S.C. § 848). Failure to appear or produce items as directed above may also result in you being taken into custody and brought before the proceedings under a Warrant of Attachment (DD Form 454) Manual for Courts-Martial R.C.M. 703(g)(3)(H)(iv). Any person who refuses to appear, testify, or produce items as directed above is guilty of an offense against the United States and shall be tried on indictment or information in a United States district court (10 U.S.C. § 847).

Issued by Lieutenant Colonel Andrea C. Goode on June 14, 2023 as Military Judge

Name

Date

Issuing Authority

GOODE, ANDREA, CHAMPAGNE Digitally signed by GOODE, ANDREA, CHAMPAGNE
Date: 2023.06.14 15:08:16 -0700

Signature of Issuing Authority

You may, before the time specified for compliance, request relief on the grounds that compliance is unreasonable or oppressive (R.C.M. 703(g)(3)(G)). Requests should be directed to:

First Lieutenant Thomas J. Sommer

401-486-1574; thomas.sommer@usmc.mil

Name, Phone Number and E-mail Address

This subpoena was requested by an official of the United States Government represented by First Lieutenant Thomas J. Sommer

Name of Government Counsel

401-486-1574; thomas.sommer@usmc.mil

Phone Number and E-mail Address of Government Counsel

CERTIFICATE OF SERVICE

Served on _____
Name of Person Served Signature Date

IF SERVICE IS REFUSED

By my signature below, I attest that I personally delivered a copy of this subpoena, on the date and at the time specified, to the person described on the "To" line above

Name of Server

Signature

Date and Time of Service

Phone Number and E-mail Address of Server

UNITED STATES OF AMERICA

SUBPOENA

Military Justice Proceeding

United States of America

v.

Captain Douglas J. Alvey, U.S. Marine Corps

Subject of Investigation / Accused

MCIO Case No. 26Apr23-NEEA-00059-8EMA (Optional)

SUBPOENA TO TESTIFY AND/OR TO PRODUCE OR PERMIT INSPECTION OF ITEMS

To: Verizon Communications, Inc., 180 Washington Valley Road; Bedminster, NJ 07921

Name of person to whom this subpoena is directed

YOU ARE HEREBY COMMANDED, PURSUANT TO 10 U.S.C. §§ 846-47, TO DO THE FOLLOWING:

☐ 1. To appear personally on the following date, time and location:

to testify before:

- ☐ an individual designated to take your deposition
- ☐ a Court-Martial of the United States
- ☐ a court of inquiry

Date:	21 June 2023
Time:	1700 PDT
Location:	Special Agent Noel Torres
	NCIS Camp Pendleton
	noel.torres@ncis.navy.mil

☒ 2. To produce the following items on the date and location listed: Basic subscriber data including but not limited to name, length of service, associated devices, and IP or physical address for the use of the following phone number: (936) 283-0064.☐ 3. To permit inspection and/or copying of the following items by the date and time listed:

Failure to appear and testify or to produce items as directed above is punishable by a fine of not more than \$1,000 or confinement for a period of not more than 30 days, or both, by the military judge (10 U.S.C. § 848). Failure to appear or produce items as directed above may also result in you being taken into custody and brought before the proceedings under a Warrant of Attachment (DD Form 454) Manual for Courts-Martial R.C.M. 703(g)(3)(H)(iv). Any person who refuses to appear, testify, or produce items as directed above is guilty of an offense against the United States and shall be tried on indictment or information in a United States district court (10 U.S.C. § 847).

Issued by Lieutenant Colonel Andrea C. Goode on June 14, 2023 as Military Judge

Name Date Issuing Authority

GOODE ANDREA CHAMPAGNE Digitally signed by GOODE ANDREA CHAMPAGNE
Date: 2023.06.14 15:05:30 -0700

Signature of Issuing Authority

You may, before the time specified for compliance, request relief on the grounds that compliance is unreasonable or oppressive (R.C.M. 703(g)(3)(G)). Requests should be directed to:

First Lieutenant Thomas J. Sommer

401-486-1574; thomas.sommer@usmc.mil

Name, Phone Number and E-mail Address

This subpoena was requested by an official of the United States Government represented by First Lieutenant Thomas J. Sommer

Name of Government Counsel

401-486-1574; thomas.sommer@usmc.mil

Phone Number and E-mail Address of Government Counsel

CERTIFICATE OF SERVICE

Served on _____

Name of Person Served Signature Date

IF SERVICE IS REFUSED

By my signature below, I attest that I personally delivered a copy of this subpoena, on the date and at the time specified, to the person described on the "To" line above

Name of Server

Signature

Date and Time of Service

Phone Number and E-mail Address of Server

Navy-Marine Corps Trial Judiciary / Western Judicial Circuit

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications Information held by Snap Inc.

Case Identifier: 26Apr23-NEEA-00059-8EMA

Search and Seizure Warrant Pursuant to 18 U.S.C. § 2703

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following property located at (identify the electronic communications or remote computing service or describe the property to be searched and give its location):

All pertinent materials as noted in Attachment B-1, Section III, with regards to materials disclosed by Snap Inc. under Attachment B-1, Section II, for username account: "ajd1212" belonging to Captain Douglas J. Alvey, U.S. Marine Corps, as noted in Attachment A-1.

I find that the affidavit(s) and/or sworn testimony establish probable cause to search and seize the property described above, and that such search will reveal (describe the property to be seized):

All pertinent materials as noted in Attachment B-1, Section III, with regards to materials disclosed by Snap Inc. under Attachment B-1, Section II, for username account: "ajd1212" belonging to Captain Douglas J. Alvey, U.S. Marine Corps, as noted in Attachment A-1.

YOU ARE COMMANDED to execute this warrant on or before

31 July 2023

(not to exceed 14 days)

The officer executing this warrant must prepare an inventory as required by law and promptly return this warrant and inventory to

Colonel Douglas C. Hatch, U.S. Marine Corps

Rank and name of military judge

Date and time issued: 20230718 1230 hours

Colonel Douglas C. Hatch, U.S. Marine Corps

Military judge's name and title

Marine Corps Base Camp Pendleton, California

HATCH.DOUGLAS.CLEMENTE Digitally signed by HATCH.DOUGLAS.CLEMENTE
Date: 2023.07.18 12:28:53 -0700

Military installation or location:

Signature of military judge

Questions and requests for relief should be directed to:

Thomas

Sommer

First name

Last name

(401) 486-1574

thomas.sommer@usmc.mil

Phone number

E-mail address

Return

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications Information held by Snap Inc.

Case Identifier: 26Apr23-NEEA-00059-8EMA

Date and time warrant executed:

Copy of warrant and inventory left with:

Inventory made in the presence of:

Certification

Inventory of the property taken:

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date:

Executing officer's signature

First name

Last name

Title

Sommer Capt Thomas J

From: Sommer 1stLt Thomas J
Sent: Friday, June 30, 2023 3:06 PM
To: Poteet LtCol Derek A
Cc: Carter Capt Kadian D; Howell Cpl Caleb J; Adams Cpl Dajuan Y
Subject: Request for pre-referral investigative warrants ICO Capt Alvey
Attachments: ALVEY Snap Discord AFFIDAVIT Signed.pdf; DD 3057 Application for Search Warrant Discord.pdf; DD 3057 Application for Search Warrant Snap.pdf; Alvey 30Jun23 Warrant Request Cover Letter.pdf; DD 3056 [Draft Search Warrant] Discord.pdf; DD 3056 [Draft Search Warrant] Snap.pdf
Signed By: thomas.sommer@usmc.mil

Good morning, Your Honor,

Please find attached for your consideration a request for two additional pre-referral investigative warrants pertaining to Capt Douglas J. Alvey, U.S. Marine Corps. The Government has previously sought several warrants and subpoenas in this case.

Thank you, Your Honor, and standing by for questions or concerns.

Very respectfully,

Thomas J. Sommer
First Lieutenant, U.S. Marine Corps
Trial Counsel - Case Screening Division (CSD)
Trial Services Organization (TSO)
Camp Pendleton, CA
760-725-5058 (work)
[REDACTED] (cell)
thomas.sommer@usmc.mil

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UNITED STATES MARINE CORPS

TRIAL SERVICES ORGANIZATION
LEGAL SERVICES SUPPORT TEAM
BOX 555031
CAMP PENDLETON, CALIFORNIA 92055-5031

IN REPLY REFER TO

5000-97

TSO

30 Jun 2023

From: Trial Counsel

To: Western Judicial Circuit Duty Judge

Subj: APPLICATION FOR PRE-REFERRAL WARRANT IN THE CASE OF UNITED STATES V. CAPTAIN DOUGLAS J. ALVEY, U.S. MARINE CORPS

Ref: (a) R.C.M. 309 Manual for Courts-Martial (2019)
(b) R.C.M. 703A Manual for Courts-Martial (2019)
(c) JAGINST 5800.7F w/ CH 2 (JAGMAN)
(d) NMCTJ Uniform Rules of Practice dtd 1 Jan 19
(e) Rule 8, WJC Rules of Court dtd 17 Feb 20
(f) Rule 8.5d, WJC Rules of Court dtd 17 Feb 20

Encl: (1) Application for Warrant (DD Form 3057) IRT Snap Inc.
(2) Draft Warrant (DD Form 3056) IRT Snap, Inc.
(3) Application for Warrant (DD Form 3057) IRT Discord Inc.
(4) Draft Warrant (DD Form 3056) IRT Discord Inc.
(5) Affidavit of NCIS Special Agent Noel Torres dtd 30 June 2023

1. Pursuant to references (a) and (b), the Government respectfully requests this Court issue warrants for the search of Captain Douglas J. Alvey's stored electronic communications and information associated with his Snapchat and Discord accounts, as set forth in the enclosures.

2. The Government has previously requested several warrants and subpoenas in this case.

3. Point of contact is the undersigned at 760-725-5058 or Thomas.sommer@usmc.mil.

SOMMER.THOMAS.
JOHN [REDACTED]
Digitally signed by SOMMER THOMAS JOHN
Date: 2023.06.30 14:42:15 -07'00'

Thomas J. Sommer
First Lieutenant, U.S. Marine Corps

I certify that I have served a true copy (via email and the Judicial SharePoint site) of the above on the Duty Military Judge and the Clerk of Court on 30 June 2023.

SOMMER.THOMAS.
JOHN [REDACTED]
Digitally signed by SOMMER THOMAS JOHN
Date: 2023.06.30 14:42:32 -07'00'

Thomas J. Sommer
First Lieutenant, U.S. Marine Corps

**NAVY-MARINE CORPS TRIAL JUDICIARY
WESTERN JUDICIAL CIRCUIT**

IN THE MATTER OF THE SEARCH OF
INFORMATION ASSOCIATED WITH THE
SNAPCHAT AND DISCORD ACCOUNTS
BELONGING TO CAPTAIN DOUGLAS J.
ALVEY, U.S. MARINE CORPS

Case No. 26Apr23-NEEA-00059-8EMA

I, Special Agent Noel Torres, upon being duly sworn do hereby state that the following is true to my knowledge and belief:

1. I am a Special Agent with the Naval Criminal Investigative Service ("NCIS"). I am an investigator and law enforcement officer of the United States within the meaning of Title 18, United States Code ("U.S.C.") § 2510(7). I am empowered by law to conduct investigations of the federal felony offenses enumerated in 18 U.S.C. § 2516. I have been employed as an NCIS Special Agent since July of 2022, and currently I am assigned to the NCIS Resident Agency Camp Pendleton, CA (Camp Pendleton, CA). Previously, I have been a Police Officer with the United States Secret Service (USSS) Uniform Division (UD), after completing the United States Secret Service Uniform Division Training Academy in December 2018, wherein I received training and education, and was required to successfully pass examinations concerning the full spectrum of State and Federal laws, enforcement, practices and theory. I have been a Juvenile Residential Treatment Officer in Travis County, TX, after I completed a Texas Juvenile Probation training course in August 2017. I received my initial training for the United States Secret Service UD at the Federal Law Enforcement Training Center (FLETC) in Glynco, GA, where I completed the Uniformed Police Training Program (UPTP), followed by the UD Training Academy at the USSS James J. Rowley Training Center (JJRTC) in Laurel, MD. I received my training for NCIS at FLETC in Glynco, GA, where I completed the NCIS Special Agent Basic Training (SABT) program. I am a graduate of the University of Arizona, obtaining a Bachelor of Science degree in Criminal Justice and a Bachelor of Science degree in Public Management and Policy. I have taken courses towards obtaining a Master of Science degree in Forensic Psychology from Walden University, online.

2. The facts set forth in this affidavit are based on my own personal knowledge; knowledge obtained from other individuals during my participation in this investigation, including other law enforcement officers; communications with others who have personal knowledge of the events and circumstances described herein; and information gained through my training and experience. Because this affidavit is submitted for the limited purpose of establishing probable cause in support of the application for a search warrant, it does not set forth each and every fact that I or others have learned during the course of this investigation.

3. This investigation concerns an alleged violation of Article 134 (Possessing, Receiving, or Viewing Child Pornography) and Article 120b (Sexual Abuse of a Child) of the Uniform Code of Military Justice (UCMJ).

4. This affidavit is made in support of an application for a search warrant for Snap, Inc. (hereinafter referred to as Snapchat), for information stored at premises owned, maintained, controlled, and/or operated by Snapchat, headquartered at 2772 Donald Douglas Loop North, Santa Monica, CA 90405, as further described in Attachment A-1. Specifically, I seek information associated with Snapchat account username “**ajd1212**” between and including the dates of May 3, 2022 to May 3, 2023 for items constituting evidence, fruits, and instrumentality of violations of federal law, namely violation of Article 134 (Possessing, receiving, or viewing child pornography) of the UCMJ, as described in Attachment B-1.

5. Additionally, this affidavit is made in support of an application for a search warrant for Discord, Inc. (hereinafter referred to as Discord), for information stored at premises owned, maintained, controlled, and/or operated by Discord, headquarter at 444 De Haro St. Suite 200, San Francisco, CA 94107, as further described in Attachment A-2. Specifically, I seek information associated with Discord account username “**DJDJ1212**,” in addition to the Discord account email **fitnfun121212@gmail.com** between and including the dates of March 15, 2023 to May 3, 2023, for items constituting evidence, fruits, and instrumentality of violations of federal law, namely violation of Article 134 (Possessing, receiving, or viewing child pornography) of the UCMJ, as described in Attachment B-2.

CHILD PORNOGRAPHY COLLECTOR CHARACTERISTICS

6. Based on my knowledge, experience, and training in child exploitation and child pornography investigations, and the training and experience of other law enforcement officers with whom Your Affiant consulted, Your Affiant knows there are certain characteristics common to many individuals involved in sexually exploiting children online and receiving, distributing or collecting child pornography.

7. Those who sexually exploit children online and exchange or collect child pornography may receive sexual gratification, stimulation, and satisfaction from contact with children; from fantasies they may have viewing children engaged in sexual activity or in sexually suggestive poses, such as in person, in photographs, or other visual media; or from literature and communications about such activity.

8. Those who sexually exploit children online and trade or collect child pornography may collect sexually explicit or suggestive materials, in a variety of mediums, including photographs, magazines, motion pictures, video tapes, books, slides or drawings, or other visual media, including digital files. Child pornography collectors oftentimes use these materials for their own sexual arousal and gratification. Further, they may use these materials to lower the inhibitions of children they are attempting to seduce, to arouse the selected child partner, or to demonstrate the desired sexual acts.

9. In recent cases, some people who have a sexual interest in children have been found to download, view, then delete child pornography on a cyclical and repetitive basis, and to regularly delete any communications about the sexual abuse of children rather than storing such evidence on their computers, digital devices, or online accounts. However, traces of this activity can often be found on such individual's computers, digital devices, or online accounts for months or even years after any downloaded files have been deleted.

10. When images and videos of child pornography or communications about sexual abuse of children are stored on computers or computer servers, forensic evidence of the downloading, saving, and storage of such evidence may remain on the computers or digital media for months

or even years even after such images and videos have been deleted from the computers or digital media.

BACKGROUND ON SNAPCHAT

11. Snapchat is a messaging platform operated by Snap, Inc., a mobile application headquartered in Santa Monica, California. It offers connections through chat, audio, photograph, and video. "Snaps" are photographs or videos taken using a camera on a mobile device. Snaps can be shared directly with the user's friends or in a "Story" or "Chat." A Story is a collection of Snaps displayed in a chronological order. Users can manage their privacy settings so that their Story can be viewed by all Snapchatters, their friends, or a custom audience. A user can also submit their Snaps to "Our Story," which enables their Snaps to be viewed by all Snapchatters in Search and Snap Map. A user can type messages, send Snaps, audio notes, and video notes to friends within the Snapchat app using the Chat feature. If a user has their location services turned on and has opted into using location services within the app, Snapchat will collect location data at various points during the user's use of Snapchat. Snapchat is accessible to any user with a mobile device.

12. Snapchat allows users to obtain accounts through their app which is downloaded via the iPhone App Store or Google Play Store. During the registration process, Snapchat provides users the option to give basic personal identifying information. This information can include the user's name, telephone number, and email address.

13. Snap's servers are designed to automatically delete a Snap in a user's Story twenty-four hours after the user posts the Snap, but the user may delete part or all of the Story earlier. Submissions to Our Story may be saved for longer period of time. Content saved in Memories is backed up by Snap and may remain in Memories until deleted by the user.

14. Mobile applications such as Snapchat typically retain transactional information about the creation and use of each account on their systems. This information can include the date and Internet Protocol (IP) address on which the account was created as well as timestamps and IP addresses of account logins and logouts.

15. Since Snapchat user data is not retained for a long period of time, a preservation request submitted by law enforcement will preserve a specific user's data in an offline file for up to 90 days. The preserved user data includes basic subscriber information, metadata, usage logs, and content such as Snaps, Chats, Stories, and Memories.

BACKGROUND ON DISCORD

16. Discord is a free multimedia messaging application (app) developed by Discord, Inc. The Discord app is available through Windows, MacOS, Android, iOS, iPadOS, Linux, and in web browsers.

17. After Discord is downloaded, the individuals (Users) create an account, which can then be used to create and exchange multimedia messages. Accessing a Discord account and its messaging contents constitute electronic communications.

18. Users communicate with voice calls, video calls, text messaging, media and files in private chats as part of communities called "servers." Servers are a collection of persistent chat rooms and voice chat channels.

19. Channels may be either used for voice chat and streaming or for instant messaging and file sharing. The visibility and access to channels can be customized to limit access from certain users, for example, marking a channel "NSFW" (Not Safe for Work) requires that first-time viewers confirm they are over 18 years old and willing to see such content.

20. Direct messages in Discord allow people to text, share files, live stream and call others privately outside of servers. An added feature in Discord direct messages is the ability to create message groups of up to 10 users. The act similar to a server's text channel, with the ability to initiate a call simultaneously for all the members in a direct message group (in servers, people can only join voice channels but cannot be called into).

21. To create a Discord account, users register for Discord with an email address and must create a username. To allow multiple users to use the same username, they are assigned a four-digit number called a "discriminator," prefixed with "#" which is added to the end of their username. Both at the server and the user level, Discord allows users to connect these to their Twitch or other gaming service accounts. Users can assign themselves a profile picture.

22. Discord stores device information such as the model, operating system, operating system version, mobile device phone number, and mobile network information of devices used in conjunction with the service. They also collect unique device identifiers such as the Media Access Control address and the International Equipment Identifier or Mobile Equipment Identifier of devices used to access Discord. In the event the Discord user's application crashes, the company also collects a list of other installed applications on the device to detect any potential software conflicts.

23. Discord also may communicate with the user, by email or otherwise. Discord collects and maintains copies of communications between Discord and the user.

24. Based on the information above, the computers of Discord, Inc. are likely to contain all the material described above, including stored electronic communications and information concerning subscribers and their use of Discord, such as account access information, which would include information such as IP addresses and devices used to access the account, as well as other account information that might be used to identify the actual user of the account at particular times.

FACTS IN SUPPORT OF PROBABLE CAUSE

25. On 06APR23, NCIS was contacted by Daniel ANFANG, CIV, Detective Lieutenant, Rockland County District Attorney's Office (RCDAO), 1 South Main Street, Suite 500, New City, New York (NY) 10956, regarding a United State Marine having sexual conversations with an undercover RCDAO Investigator, Debbie MONAHAN, CIV, portraying herself online as a 13 year old female. The communications originated from cell phone number (443) 307-1291. A review of Department of Defense records reveal the aforementioned cell phone belonging to Captain (Capt.) Douglas James ALVEY, USMC, 7th Engineer Support Battalion (7th ESB), 1st Marine Logistics Group (1st MLG), Marine Corps Base (MCB) Camp Pendleton, California (CA) (hereafter SUBJECT).

26. A search of public records by RCDAO for telephone number (443) 307-1291 revealed the number belonged to the SUBJECT. SUBJECT expressed an interest to travel to Rockland, NY to meet the alleged 13 year old on 11APR23 for the purpose of engaging in sexual 3 activity.

SUBJECT did not travel to Rockland County on 11APR23 and has ceased all communication with MONAHAN.

27. MONAHAN was initially contacted by the SUBJECT on the website Chat Avenue (<https://www.chat-avenue.com>). Chat Avenue is a web site that hosts several chat rooms and allows users to create profiles within the chat room. MONAHAN created a profile with the username "nicoleeexo" stating "13 f hmu if u from ny." MONAHAN created the profile in the "Teen Chat" chatroom, which is a chat room specifically designed for teenagers between the ages of 13 and 19. Based upon my training and experience I know that "13 f hmu if u from ny" means 13 year old Female hit me up if you are from NY. SUBJECT engaged in a chat with MONAHAN using the profile "fun athlete" beginning at 14:32 (Eastern Daylight Time) on 4APR23 by stating "Hey i am 18 m in ny, you?" Based upon my training and experience I know that 18 m means 18-year-old male.

28. Chat-Avenue provided records showing user "fun athlete" accessed the platform on 26APR23 using IP address 47.150.2.100. The aforementioned IP address is owned by Frontier Communications of America, Inc. (hereafter FRONTIER). FRONTIER provided subscriber data for the aforementioned IP address which indicates SUBJECT was assigned the IP address, and SUBJECTS residence, 32972 Valence Ct, Temecula, CA is the location for internet service tied to the IP address.

29. SUBJECT asks MONAHAN if she is single and she replies "yaaaa." SUBJECT says "Yeah id love to hangout with you, maybe go shopping or a movie or something." MONAHAN replies "that would be funnnn." MONAHAN and SUBJECT discuss a time when SUBJECT can come pick her up. SUBJECT suggest "Yeah, maybe some m9vie making out too 4 haha." MONAHAN responds "oooo ;)." SUBJECT asks if that is okay and also if touching is okay. MONAHAN says "that's okkk."

30. MONAHAN says "well ive done a lil touchin before" "a lil on top." SUBJECT asks "On your chest?" SUBJECT says "How did you like that? What size are you?" MONAHAN responds "34 a" to which SUBJECT says "Nice, id love to touch on them too" "touch all over you in the movies." SUBJECT asks "Can I take your shirt and bra off too?" MONAHAN says "yaaaaa" and

SUBJECT says "Nice, i will like them a lot" "You will get me very hard lol yes." MONAHAN then provides the SUBJECT with her phone number, (845)681- 2731, for texting.

31. MONAHAN and SUBJECT exchanged numerous text messages from 04APR23 – 11APR23. Text messages sent by SUBJECT include "I kiss all over you" "Of course :) I'll be all over you in the movies" "You can take your shirt off for me too ;)." MONAHAN at one point says "i wont get preggo righ" and SUBJECT says "And no. only if I finish inside you and you aren't on bc" "OK, we will have to try and pull out then and cum somewhere else" "Lol up to you, I like to cum inside, depends where you want a mess on you" "Mm I'd be inside you right this second of I was there with you" "Lol good, that makes me cum so hard :)" "I can cover your mouth or put your face in the pillow while we do it."

32. On 04APR23 – 05APR23, SUBJECT sent three photos of himself to MONAHAN. The three photos depict SUBJECTS chest and face. In two of the photos, SUBJECT is bare-chested and in one photo SUBJECT is wearing a white t-shirt. The photos depict an individual consistent with SUBJECT'S official military photographs. The metadata on 5 the photos revealed they were taken on 16JAN15 and 17JAN15 by a SAMSUNG-SM-G900A. SUBJECT would have been 24 years old at the time the pictures were taken.

33. On 03MAY23, SUBJECT was interviewed by NCIS. SUBJECT admitted to the aforementioned conversations with MONAHAN. SUBJECT also admitted to engaging in sexually explicit conversations over the previous year with "dozens" of minors as young as 13-years-old, and at times requesting nude photographs of children. SUBJECT stated he conversed with minors using the Chat-Avenue.com website as well as through text message on his phone.

34. SUBJECT admitted to conversing with minors that he met on Chat-Avenue.com since at least April 2022.

35. On 03MAY23, NCIS submitted a preservation request to Snap, Inc. to preserve records associated with:

- a. Username: ajd1212
- b. Phone: (443)307-1291

c. Email: fitnfun121212@gmail.com

d. Email: alveydj12@gmail.com

e. Email: dalvey1212@hotmail.com

36. NCIS seized a Samsung Galaxy S21 Android phone from SUBJECT on 03MAY23. Between 11MAY23 through 08JUN23, NCIS Cyber conducted examinations of the Samsung Galaxy S21. At the completion of NCIS Cyber's examination of the Samsung Galaxy S21, NCIS conducted an additional examination review, which revealed multiple Snapchat messages between SUBJECT and other individuals on various dates.

37. The Snapchat messages revealed on 20JAN23, SUBJECT under username "ajd1212" conversed with an individual "Wannabes1ut" associated with a JULIANA. JULIANA said "Are you going to change my look?" in which SUBJECT responded with "I might after I try you out." "Send me more of you." JULIANA sent SUBJECT an image, in which SUBJECT said "Mm you are going to be fucked so dam much." On 24APR23, SUBJECT conversed with an individual "desireeis.emo" associated with a DESSY. DESSY asked "Like this." in which SUBJECT said "So pretty."

38. Between 12JUN23 and 16JUN23, NCIS reviewed Google LLC. search warrant return. The reviewed revealed SUBJECT created a Discord account on 15Mar23, under username "DJDJ1212" and email fitnfun121212@gmail.com. Based on my training and experience Discord is an application that allows individuals to message, voice chat, exchange photos and files with little to no restrictions. Discord verifies the user's age and authorizes content based on the user being under or over the age of 18.

39. On 16JUN23, NCIS submitted a preservation request to Discord, Inc. to preserve records associated with:

a. Username: DJDJ1212

b. Email: fitnfun121212@gmail.com

40. The cell phone contained messages between SUBJECT and minors, children, and/or other individuals that SUBEJCT believed to be minors and children and with whom he engaged

in sexually charged conversations. Based on my training and experience, individuals who express a desire to engage in sexual acts with minors also access and obtain child sexual abuse material (CSAM). Based on my training and experience, individuals who view child pornography, CSAM frequently confine these materials to discrete locations. To avoid detection, individuals who view and subsequently delete the child pornography will often create “throw away” or burner accounts on various platforms. Known platforms for trading CSAM with such accounts include, but not limited to, Snapchat, Reddit, Twitter, Discord and Facebook due to minimum amount of verification to open a new account.

41. Based on the facts described above, it is believed there is additional evidence pertinent to the investigation in the data held by Snapchat and Discord, as more particularly described in Attachment B-1 and Attachment B-2.

**PROCEDURES FOR ELECTRONICALLY STORED INFORMATION AS TO
ELECTRONIC STORAGE DEVICES**

42. Federal agents and investigative support personnel are trained and experienced in identifying communications relevant to the crimes under investigation. The personnel of Snapchat and Discord are not. It would be inappropriate and impractical for federal agents to search the vast computer network of Snapchat and Discord for the relevant account and then to analyze the contents of that account on the premises of Snapchat and Discord. The impact on Snapchat and Discord’s business would be severe.

43. Therefore, I request authority to seize all content, including communications such as stored messages, stored voice messages, photographs, videos, location data, and any other content from the Snapchat and Discord accounts as described in Attachment A-1 and Attachment A-2. In order to accomplish the objective of the search warrant with a minimum of interference with the business activities of Snapchat and Discord, to protect the rights of the subject of the investigation, and to effectively pursue this investigation, authority is sought to allow Snapchat and Discord to make a digital copy of the entire contents of the accounts subject to seizure. That copy will be provided to me or to any authorized federal agent. The copy will be forensically imaged and the image will then be analyzed to identify communications and other data subject to

seizure pursuant to Attachment B-1 and Attachment B-2. Relevant data will be copied to separate media. The original media will be sealed and maintained to establish authenticity, if necessary.

44. Analyzing the data to be provided by Snapchat and Discord requires special technical skills, equipment, and software. It also can be very time-consuming. Searching by keywords, for example, often yields many thousands of “hits,” each of which must be reviewed in its context by the examiner to determine whether the data is within the scope of the warrant. Merely finding a relevant “hit” does not end the review process. Certain file formats do not lend themselves to keyword searches, which search text. Many photographs and videos do not store data as searchable text. Instead, the data is saved in a proprietary non-text format. And, as the volume of storage allotted by service providers increases, the time it takes to properly analyze recovered data increases dramatically. Mobile applications do not always organize the electronic files chronologically, which makes review even more time consuming and may also require the examiner to review each page or record for responsive material.

45. Based on the foregoing, identifying and extracting data for the information subject to seizure pursuant to this warrant may require a range of data analysis techniques and may take weeks or even months. Keywords need to be modified continuously based upon the results obtained and, depending on the organization, format, and language of the records provided, examiners may need to review each record to determine if it is responsive to Attachment B-1 and Attachment B-2. The personnel conducting the segregation and extraction of data will complete the analysis and provide the data authorized by this warrant to the investigating team within ninety (90) days from the receipt of the data from the service provider, absent further application to this court.

46. Based upon my training and experience, and the training and experience of other agents with whom I have communicated, it is necessary to review and seize all communications that identify any users of the accounts, their relationships, and any communications sent or received in relation to the alleged violation of Article 134 (Possessing, receiving, or viewing child pornography) of the UCMJ, as well as communications sent or received that provide context to the aforementioned violations.

47. All forensic analysis of the imaged data will employ search protocols directed exclusively to the identification, segregation, and extraction of data within the scope of this warrant.

GENUINE RISKS OF DESTRUCTION OF EVIDENCE

48. Based upon my training and experience, and the training and experience of other agents with whom I have communicated, electronically stored data can be permanently deleted or modified by users possessing basic computer skills; therefore, a preservation request was submitted to Snapchat on May 3, 2023 to preserve the contents of the accounts. A preservation request was submitted to Discord on June 16, 2023 to preserve the contents of the accounts.

CONCLUSION

49. Based on the aforementioned factual information, I respectfully submit that there is probable cause to believe that a search of the Snapchat account for username “ajd1212”, as described in Attachment A-1, may yield evidence of violation of Article 134 (Possessing, receiving, or viewing child pornography) and Article 120b (Sexual abuse of a child) of the UCMJ. Accordingly, I request that the Court issue a warrant authorizing law enforcement to search the items described in Attachment A-1, and seize the items listed in Attachment B-1.

50. Based on the aforementioned factual information, I respectfully submit that there is probable cause to believe that a search of the Discord account for username “DJDJ121212”, as described in Attachment A-2, may yield evidence of violation of Article 134 (Possessing, receiving, or viewing child pornography) and Article 120b (Sexual abuse of a child) of the UCMJ. Accordingly, I request that the Court issue a warrant authorizing law enforcement to search the items described in Attachment A-2, and seize the items listed in Attachment B-2.

51. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and recollection.



Special Agent Noel Torres
Naval Criminal Investigative Service
NCISRA Camp Pendleton, CA

Sworn and subscribed to before me on this date, 30 June 2023.



First Lieutenant Thomas J. Sommer, USMC
Trial Counsel, Trial Services Office
Marine Corps Base Camp Pendleton, CA

ATTACHMENT A-1

DESCRIPTION OF PROPERTY TO BE SEARCHED

Snap Inc. is a mobile application technology company with its primary computer information systems and other electronic communications and storage systems, records, and data located at 2772 Donald Douglas Loop North, Santa Monica, CA 90405. The information to be searched is the Snapchat account associated with the following username:

ajd1212

ATTACHMENT B-1

I. Service of Warrant

The agent executing the warrant shall permit Snap Inc. as custodian of the files described in Section II below, to locate the files and deliver the same to the agent. Snap Inc. is authorized to disclose responsive data, if any, by delivering encrypted files to the Naval Criminal Investigative Service (NCIS) via the attention of the agent executing this warrant, 120101 De Luz Road, Box 555238, Camp Pendleton, California 92055.

II. Information to be disclosed by Snap, Inc.

To the extent that the information described in Attachment A-1 is within the possession, custody, or control of Snap Inc., Snap Inc. is required to disclose the following information to the government for the account or identifiers listed in Attachment A-1. Such information should include the below-described content of the subject account:

- a. All activity logs for the account and all other documents showing the user's Content, including Memories, Stories, My Eyes Only content, and other Snapchat activities from 1 April 2022 to 4 May 2023;
- b. All records of Snaps and messages sent between the specified user and any other user from 1 April 2022 to 4 May 2023;
- c. All Snap Map and other location information from 1 April 2022 to 4 May 2023;
- d. All IP logs, including all records of the IP addresses that logged into the account from 1 April 2022 to 4 May 2023;
- e. All records of Snapchat searches performed by the account from 1 April 2022 to 4 May 2023;
- f. All records pertaining to communications between Snapchat and any person regarding the user or the user's Snapchat account, including contacts with support services and records of actions taken.

III. Information to be seized by the Government

The search of the data supplied by Snapchat pursuant to this warrant will be conducted by NCIS as provided in the "Procedures for Electronically Stored Information" of the affidavit submitted in support of this search warrant and will be limited to the period between and including the dates of 1 April 2022 to 4 May, 2023, and to the seizure of:

- a. Communications, attachments, videos, and photographs, to include the date and time in which the communications, attachments, videos, and photographs were sent and opened, which yield evidence of violation of Article 134 (Possessing, receiving, or viewing child pornography) of the UCMJ.
- a. Records or other information regarding the identification of the account, to include full name, telephone numbers and other identifiers, records of session times and durations, the date on which the account was created, the length of service, the types of service utilized, the IP address used to register the account, log-in IP addresses associated with session times and dates, account status, e-mail addresses provided during registration, methods of connecting, location data, and log files
- b. Communications, attachments, videos, and photographs, to include the date and time in which the communications, attachments, videos, and photographs were sent and opened, tending to identify co-conspirators, criminal associates, or others involved in the distributing, receiving, possessing, or accessing child pornography as defined by 18 U.S.C. § 2256.

ATTACHMENT A-2

DESCRIPTION OF PROPERTY TO BE SEARCHED

Discord Inc. is an application technology company with its primary computer information systems and other electronic communications and storage systems, records, and data located at 444 De Haro St, Suite 200, San Francisco, CA 94107. The information to be searched is the Discord account associated with the following username and email:

Subject Username: **DJJDJ1212**

Subject Email: **Fitnfun121212@gmail.com**

ATTACHMENT B-2

I. Service of Warrant

The agent executing the warrant shall permit Discord, Inc. as custodian of the files described in Section II below, to locate the files and deliver the same to the agent. Discord, Inc. is authorized to disclose responsive data, if any, by delivering encrypted files to the Naval Criminal Investigative Service (NCIS) via the attention of the agent executing this warrant, 120101 De Luz Road, Box 555238, Camp Pendleton, California 92055.

II. Information to be disclosed by Discord Inc.

To the extent that the information described in Attachment A-2 is within the possession, custody, or control of Discord, Inc. ("Discord"), including any messages, records, files, logs, or information that have been deleted but are still available to Discord, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Discord is required to disclose the following information to the government for each user ID and email listed in Attachment A-2:

- g. All records or other information regarding the identification of the account, to include full name, physical address, telephone numbers and other identifiers, records of session times and durations, the date on which the account was created, the length of service, the IP address used to register the account, log-in IP addresses associated with session times and dates, account status, alternative email addresses provided during registration, Discord passwords, Discord security questions and answers, alternate Discord accounts, methods of connecting, log files, and means and source of payment (including any credit or bank account number);
- h. All records Direct Messages sent between the subject account and any other user, including content, dates, times, and any other data 1 April 2022 to 4 May, 2023;
- i. All records of any chatrooms, or "Servers," which the subject account has joined or viewed, including the content of any messages sent by the subject account;
- j. A list of all "Friends" of the subject account, including the date of birth associated with each account from 1 April 2022 to 4 May, 2023:

- k. All records of searches performed by the account from 1 April 2022 to 4 May 2023;
- l. All records pertaining to communications between Discord and any person regarding the user or the user's Discord account, including contacts with support services and records of actions taken.

III. Information to be seized by the Government

The search of the data supplied by Snapchat pursuant to this warrant will be conducted by NCIS as provided in the "Procedures for Electronically Stored Information" of the affidavit submitted in support of this search warrant and will be limited to the period between and including the dates of 1 April 2022 to 4 May, 2023, and to the seizure of:

- b. Communications, attachments, videos, and photographs, to include the date and time in which the communications, attachments, videos, and photographs were sent and opened, which yield evidence of violation of Article 134 (Possessing, receiving, or viewing child pornography) of the UCMJ.
- a. Records or other information regarding the identification of the account, to include full name, telephone numbers and other identifiers, records of session times and durations, the date on which the account was created, the length of service, the types of service utilized, the IP address used to register the account, log-in IP addresses associated with session times and dates, account status, e-mail addresses provided during registration, methods of connecting, location data, and log files
- b. Communications, attachments, videos, and photographs, to include the date and time in which the communications, attachments, videos, and photographs were sent and opened, tending to identify co-conspirators, criminal associates, or others involved in the distributing, receiving, possessing, or accessing child pornography as defined by 18 U.S.C. § 2256.

Navy-Marine Corps Trial Judiciary / Western Judicial Circuit

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications Information held by Discord Inc.

Case Identifier: 26Apr23-NEEA-00059-8EMA

Search and Seizure Warrant Pursuant to 18 U.S.C. § 2703

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following property located at (*identify the electronic communications or remote computing service or describe the property to be searched and give its location*):

All pertinent materials as noted in Attachment B-2, Section III, with regards to materials disclosed by Discord Inc. under Attachment B-2, Section II, for username account: "DJDJ1212" belonging to Captain Douglas J. Alvey, U.S. Marine Corps, as noted in Attachment A-2.

I find that the affidavit(s) and/or sworn testimony establish probable cause to search and seize the property described above, and that such search will reveal (*describe the property to be seized*):

All pertinent materials as noted in Attachment B-2, Section III, with regards to materials disclosed by Discord Inc. under Attachment B-2, Section II, for username account: "DJDJ1212" belonging to Captain Douglas J. Alvey, U.S. Marine Corps, as noted in Attachment A-2.

YOU ARE COMMANDED to execute this warrant on or before

15 July 2022

(not to exceed 14 days)

The officer executing this warrant must prepare an inventory as required by law and promptly return this warrant and inventory to

Lieutenant Colonel Derek A. Poteet, U.S. Marine Corps

Rank and name of military judge

Date and time issued: _____ hours

Lieutenant Colonel Derek A. Poteet, U.S. Marine Corps

Military judge's name and title

Marine Corps Base Camp Pendleton, California

Military installation or location:

Signature of military judge

Questions and requests for relief should be directed to:

Thomas

Sommer

First name

Last name

(401) 486-1574

thomas.sommer@usmc.mil

Phone number

E-mail address

Return

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications Information held by Discord Inc.

Case Identifier: 26Apr23-NEEA-00059-8EMA

Date and time warrant executed:

Copy of warrant and inventory left with:

Inventory made in the presence of:

Certification

Inventory of the property taken:

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date:

Executing officer's signature

First name

Last name

Title

Navy-Marine Corps Trial Judiciary / Western Judicial Circuit

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications Information held by Snap Inc.

Case Identifier: 26Apr23-NEEA-00059-8EMA

Search and Seizure Warrant Pursuant to 18 U.S.C. § 2703

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following property located at (*identify the electronic communications or remote computing service or describe the property to be searched and give its location*):

All pertinent materials as noted in Attachment B-1, Section III, with regards to materials disclosed by Snap Inc. under Attachment B-1, Section II, for username account: "ajd1212" belonging to Captain Douglas J. Alvey, U.S. Marine Corps, as noted in Attachment A-1.

I find that the affidavit(s) and/or sworn testimony establish probable cause to search and seize the property described above, and that such search will reveal (*describe the property to be seized*):

All pertinent materials as noted in Attachment B-1, Section III, with regards to materials disclosed by Snap Inc. under Attachment B-1, Section II, for username account: "ajd1212" belonging to Captain Douglas J. Alvey, U.S. Marine Corps, as noted in Attachment A-1.

YOU ARE COMMANDED to execute this warrant on or before

15 July 2022

(*not to exceed 14 days*)

The officer executing this warrant must prepare an inventory as required by law and promptly return this warrant and inventory to

Lieutenant Colonel Derek A. Poteet, U.S. Marine Corps

Rank and name of military judge

Date and time issued: _____ hours

Lieutenant Colonel Derek A. Poteet, U.S. Marine Corps

Military judge's name and title

Marine Corps Base Camp Pendleton, California

Military installation or location:

Signature of military judge

Questions and requests for relief should be directed to:

Thomas

Sommer

First name

Last name

(401) 486-1574

thomas.sommer@usmc.mil

Phone number

E-mail address

Return

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications Information held by Snap Inc.

Case Identifier: 26Apr23-NEEA-00059-8EMA

Date and time warrant executed:

Copy of warrant and inventory left with:

Inventory made in the presence of:

Certification

Inventory of the property taken:

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date:

Executing officer's signature

First name

Last name

Title

Navy-Marine Corps Trial Judiciary / Western Judicial Circuit

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications Information held by Discord Inc.

Case Identifier: 26Apr23-NEEA-00059-8EMA

Application for Search and Seizure Warrant Pursuant to 18 U.S.C. § 2703

I, a federal law enforcement officer or authorized counsel for the Government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following property (*identify the electronic communications or remote computing service or describe the property to be searched and give its location*):

All pertinent materials as noted in Attachment B-2, Section III, with regards to materials disclosed by Discord Inc. under Attachment B-2, Section II, for username account: "DJDJ1212" belonging to Captain Douglas J. Alvey, U.S. Marine Corps, as noted in Attachment A-2.

There is now concealed within the jurisdiction of a court of competent jurisdiction pursuant to 18 U.S.C. §2711(3)(C) and 10 U.S.C. 846(d) (3), (*identify the property or data to be seized*):

All pertinent materials as noted in Attachment B-2, Section III, with regards to materials disclosed by Discord Inc. under Attachment B-2, Section II, for username account: "DJDJ1212" belonging to Captain Douglas J. Alvey, U.S. Marine Corps, as noted in Attachment A-2.

The basis for the search is evidence of a crime.

10 USC §§ 880, 882, 920b, 933, 934

Child Sexual Abuse by Indecent Communication, Soliciting Child Pornography

The search is related to a violation of:
(Insert code or UCMJ section)

Offense description:
(Title of the offense)

The application is based on these facts (*list the pertinent facts here or refer to an attachment*):

Please refer to the attached affidavit of Special Agent Noel Torres, Naval Criminal Investigative Service.

☐ Continued on the attached sheet

First Lieutenant Thomas J. Sommer, U.S. Marine Corps

Applicant's printed name and title

☐ Non-disclosure Order Requested

SOMMER.THOMAS.JOHN [REDACTED] Digitally signed by SOMMER.THOMAS.JOHN [REDACTED]
Date: 2023.06.30 14:22:22 -0700

Applicant's signature

Sworn to before me, a person authorized to administer oaths under 10 U.S.C. § 936

20230630

Captain Anthony S. Jenny, U.S. Marine Corps

Date

Printed name and title of military judge or other official administering oath

Marine Corps Base Camp Pendleton, California

JENNY.ANTHONY.SCOTT [REDACTED]

Digitally signed by JENNY.ANTHONY.SCOTT [REDACTED]
Date: 2023.06.30 14:56:02 -0700

Military installation or location

Signature

administering oath

Navy-Marine Corps Trial Judiciary / Western Judicial Circuit

In the Matter of the Search of
(Briefly describe the property to be searched):

Stored Electronic Communications Information held by Snap Inc.

Case Identifier: 26Apr23-NEEA-00059-8EMA

Application for Search and Seizure Warrant Pursuant to 18 U.S.C. § 2703

I, a federal law enforcement officer or authorized counsel for the Government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following property (*identify the electronic communications or remote computing service or describe the property to be searched and give its location*):

All pertinent materials as noted in Attachment B-1, Section III, with regards to materials disclosed by Snap Inc. under Attachment B-1, Section II, for username account: "ajd1212" belonging to Captain Douglas J. Alvey, U.S. Marine Corps, as noted in Attachment A-1.

There is now concealed within the jurisdiction of a court of competent jurisdiction pursuant to 18 U.S.C. §2711(3)(C) and 10 U.S.C. 846(d) (3), (*identify the property or data to be seized*):

All pertinent materials as noted in Attachment B-1, Section III, with regards to materials disclosed by Snap Inc. under Attachment B-1, Section II, for username account: "ajd1212" belonging to Captain Douglas J. Alvey, U.S. Marine Corps, as noted in Attachment A-1.

The basis for the search is evidence of a crime.

10 USC §§ 880, 882, 920b, 933, 934

Child Sexual Abuse by Indecent Communication, Soliciting Child Pornography

The search is related to a violation of:
(Insert code or UCMJ section)

Offense description:
(Title of the offense)

The application is based on these facts (*list the pertinent facts here or refer to an attachment*):

Please refer to the attached affidavit of Special Agent Noel Torres, Naval Criminal Investigative Service.

☐ Continued on the attached sheet

First Lieutenant Thomas J. Sommer, U.S. Marine Corps

Applicant's printed name and title

☐ Non-disclosure Order Requested

SOMMER.THOMAS.JOHN [REDACTED] Digitally signed by SOMMER.THOMAS.JOHN [REDACTED]
Date: 2023.06.30 14:23:00 -0700

Applicant's signature

Sworn to before me, a person authorized to administer oaths under 10 U.S.C. § 936

20230630

Captain Anthony S. Jenny, U.S. Marine Corps

Date

Printed name and title of military judge or other official administering oath

Marine Corps Base Camp Pendleton, California

JENNY.ANTHONY.SCOTT [REDACTED]

Digitally signed by JENNY.ANTHONY.SCOTT [REDACTED]
Date: 2023.06.30 14:55:06 -0700

Military installation or location

Signature administering oath

Sommer Capt Thomas J

From: Carter Capt Kadian D
Sent: Tuesday, July 18, 2023 12:30 PM
To: Sommer 1stLt Thomas J; Torres, Noel A - GOV
Subject: FW: Request for pre-referral investigative warrants ICO Capt Alvey
Attachments: DD 3056 Draft Search Warrant Snap.pdf
Signed By: KADIAN.CARTER@USMC.MIL

From: Hatch Col Douglas C <douglas.hatch@usmc.mil>
Sent: Tuesday, July 18, 2023 12:28 PM
To: Carter Capt Kadian D <kadian.carter@usmc.mil>
Cc: Adams Cpl Dajuan Y <dajuan.adams@usmc.mil>; Howell Cpl Caleb J <caleb.howell@usmc.mil>; Aguilar-Pack Cpl Liliana R <liliana.aguilarpack@usmc.mil>; PNDL WJC SIERRA JUDGES <pndl_wjc_sierra_judges@usmc.mil>
Subject: RE: Request for pre-referral investigative warrants ICO Capt Alvey

Trial Counsel,

The warrant application for Snap, Inc. is APPROVED. See attached.

The warrant application for Discord in DISAPPROVED due to lack of probable cause.

S/F

Col Hatch

From: Aguilar-Pack Cpl Liliana R <liliana.aguilarpack@usmc.mil>
Sent: Tuesday, July 18, 2023 10:50 AM
To: Hatch Col Douglas C <douglas.hatch@usmc.mil>
Cc: Carter Capt Kadian D <kadian.carter@usmc.mil>; Adams Cpl Dajuan Y <dajuan.adams@usmc.mil>; Howell Cpl Caleb J <caleb.howell@usmc.mil>
Subject: FW: Request for pre-referral investigative warrants ICO Capt Alvey

Good Morning, Sir,

Please see the attached warrants ICO US v. Alvey.

Respectfully,
Liliana R. Aguilarpack
Corporal, U.S. Marine Corps
Clerk of Court
Judiciary Circuit
Camp Pendleton, CA
liliana.aguilarpack@usmc.mil
Office #: (760) 725-6273

From: Carter Capt Kadian D <kadian.carter@usmc.mil>
Sent: Tuesday, July 18, 2023 10:47 AM
To: Aguilar-Pack Cpl Liliana R <liliana.aguilarpack@usmc.mil>
Subject: FW: Request for pre-referral investigative warrants ICO Capt Alvey

From: Sommer 1stLt Thomas J <thomas.sommer@usmc.mil>
Sent: Friday, June 30, 2023 3:06 PM
To: Poteet LtCol Derek A <derek.poteet@usmc.mil>
Cc: Carter Capt Kadian D <kadian.carter@usmc.mil>; Howell Cpl Caleb J <caleb.howell@usmc.mil>; Adams Cpl Dajuan Y <dajuan.adams@usmc.mil>
Subject: Request for pre-referral investigative warrants ICO Capt Alvey

Good morning, Your Honor,

Please find attached for your consideration a request for two additional pre-referral investigative warrants pertaining to Capt Douglas J. Alvey, U.S. Marine Corps. The Government has previously sought several warrants and subpoenas in this case.

Thank you, Your Honor, and standing by for questions or concerns.

Very respectfully,

Thomas J. Sommer
First Lieutenant, U.S. Marine Corps
Trial Counsel - Case Screening Division (CSD)
Trial Services Organization (TSO)
Camp Pendleton, CA
760-725-5058 (work)
[REDACTED] (cell)
thomas.sommer@usmc.mil

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UNITED STATES MARINE CORPS

1ST MARINE LOGISTICS GROUP, FMF
BOX 555606
CAMP PENDLETON, CALIFORNIA 92055-5606

IN REPLY REFER TO:

5813

GCMCO #1-23

JUL 17 2023

A general court-martial is hereby convened pursuant to Articles 22 and 25 of the Uniform Code of Military Justice and Section 0120 of the Manual of the Judge Advocate General. It may proceed at Marine Corps Base, Camp Pendleton, California or any such authorized place as directed. This convening order supersedes all other general court-martial convening orders of 1st Marine Logistics Group. The court-martial will be constituted as follows:

MEMBERS

Colonel T. M. Menke, U.S. Marine Corps;
Colonel J. S. McCalmont, U.S. Marine Corps;
Colonel P. N. Wilson, U.S. Marine Corps;
Lieutenant Colonel E. Kauffman, U.S. Marine Corps;
Lieutenant Colonel S. R. Culbertson, U.S. Marine Corps;
Major A. W. Cloninger, U.S. Marine Corps;
Major Y. Omarov, U.S. Marine Corps; and
Major G. C. Luedtke, U.S. Marine Corps.

A. M. NIEBEL
Brigadier General
U.S. Marine Corps
Commanding General

CHARGE SHEET				
1. NAME OF ACCUSED (Last, First, MI) Alvey, Douglas, J.		I. PERSONAL DATA 2 EDIPI [REDACTED]		3. RANK/RATE Capt
5. UNIT OR ORGANIZATION 7th Engineer Support Battalion, 1st Marine Logistics Group		6. CURRENT SERVICE a. INITIAL DATE 23 Apr 2013		4. PAY GRADE O-3 b. TERM Indefinite
7. PAY PER MONTH a. BASIC \$7,340.10		8. NATURE OF RESTRAINT OF ACCUSED PTC		9. DATE(S) IMPOSED 10 May 2023 - Present
b. SEA/FOREIGN DUTY NONE		c. TOTAL \$7,340.10		
II. CHARGES AND SPECIFICATIONS				
10. Charge I: Violation of the UCMJ, Article 80				
Specification (<i>Attempt - Sexual Abuse of a Child Involving Indecent Communications</i>): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 11 January 2023 and on or about 11 April 2023, attempt to commit a lewd act upon a child.				
Charge II: Violation of the UCMJ, Article 120b				
Specification (<i>Sexual Abuse of a Child Involving Indecent Exposure</i>): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 1 April 2022 and on or about 4 May 2023, commit a lewd act upon a child.				
Charge III: Violation of the UCMJ, Article 133				
Specification 1 (<i>Conduct Unbecoming an Officer and a Gentleman</i>): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 1 April 2022 and on or about 4 May 2023, discuss his sexual desires with persons he believed to be minors who had not attained the age of 16 years, and that under the circumstances, the Accused's conduct was unbecoming an officer and a gentleman.				
Specification 2 (<i>Conduct Unbecoming an Officer and a Gentleman</i>): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 1 April 2022 and on or about 4 May 2023, send shirtless photos of himself to persons he believed to be minors who had not attained the age of 16 years, and that under the circumstances, the Accused's conduct was unbecoming an officer and a gentleman.				
[SEE SUPPLEMENTAL PAGE]				
III. PREFERRAL				
11a. NAME OF ACCUSER (Last, First, MI) Adams, Dajuan, Y.		b. GRADE Cpl		c. ORGANIZATION OF ACCUSER HqSptBn, MCI-W, MCB, CamPen, CA
d. SIGNATURE OF ACCUSER [REDACTED]		e. DATE 14 July 2023		
AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this <u>14th</u> day of <u>July</u> , 20 <u>23</u> , and signed the foregoing charges and specifications under oath that he is a person subject to the Uniform Code of Military Justice and that he either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his knowledge and belief.				
T. J. SOMMER <i>Typed Name of Officer</i>		HqSptBn, MCI-W, MCB, CamPen, CA <i>Organization of Officer</i>		
First Lieutenant, U.S. Marine Corps [REDACTED]		Judge Advocate <i>Official Capacity to Administer Oaths</i> <i>(See R.C.M. 307(b)--must be commissioned officer)</i>		
Signature				

ORIGINAL

12. On July 14th, 20 23, the accused was informed of the charges against him and of the name of the accuser known to me. (See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

S. R. CULBERTSON

Typed Name of Immediate Commander

7th ESB, 1st MLG

Organization of Immediate Commander

Lieutenant Colonel, U.S. Marine Corps

IV. RECEIPT BY COURT-MARTIAL CONVENING AUTHORITY

13. The sworn charges were received at 1138 hours, July 14th, 20 23 at 7th ESB, 1st MLG
Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE¹ Commanding Officer

J. M. WILLIAMS

Typed Name of Officer

Legal Officer

Official Capacity of Officer Signing

First Lieutenant, U.S. Marine Corps

Grade

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b. PLACE

c. DATE

1st Marine Logistics Group

Camp Pendleton, CA

SEP 21 2023

Referred for trial to the general court-martial convened by GCMCO #1-23

Dated 17 July, 20 23, subject to the following instructions:² None

By //////////////////// Of _____
Command or Order

A. M. NIEBEL

Typed Name of Officer

Commanding General

Official Capacity of Officer Signing

BRIGADIER GENERAL, U.S. MARINE CORPS

15. On 21 September, 20 23, I caused to be served a copy hereof on the above named accused.

T-T SOMMER C P HUR

Lieutenant Colonel

First Lieutenant, U.S. Marine Corps

Grade or Rank of Trial Counsel

FOOTNOTES

1 -- When an appropriate commander signs personally, inapplicable words are stricken.
2 -- See R.C.M. 601(a) concerning instructions. If none, so state.

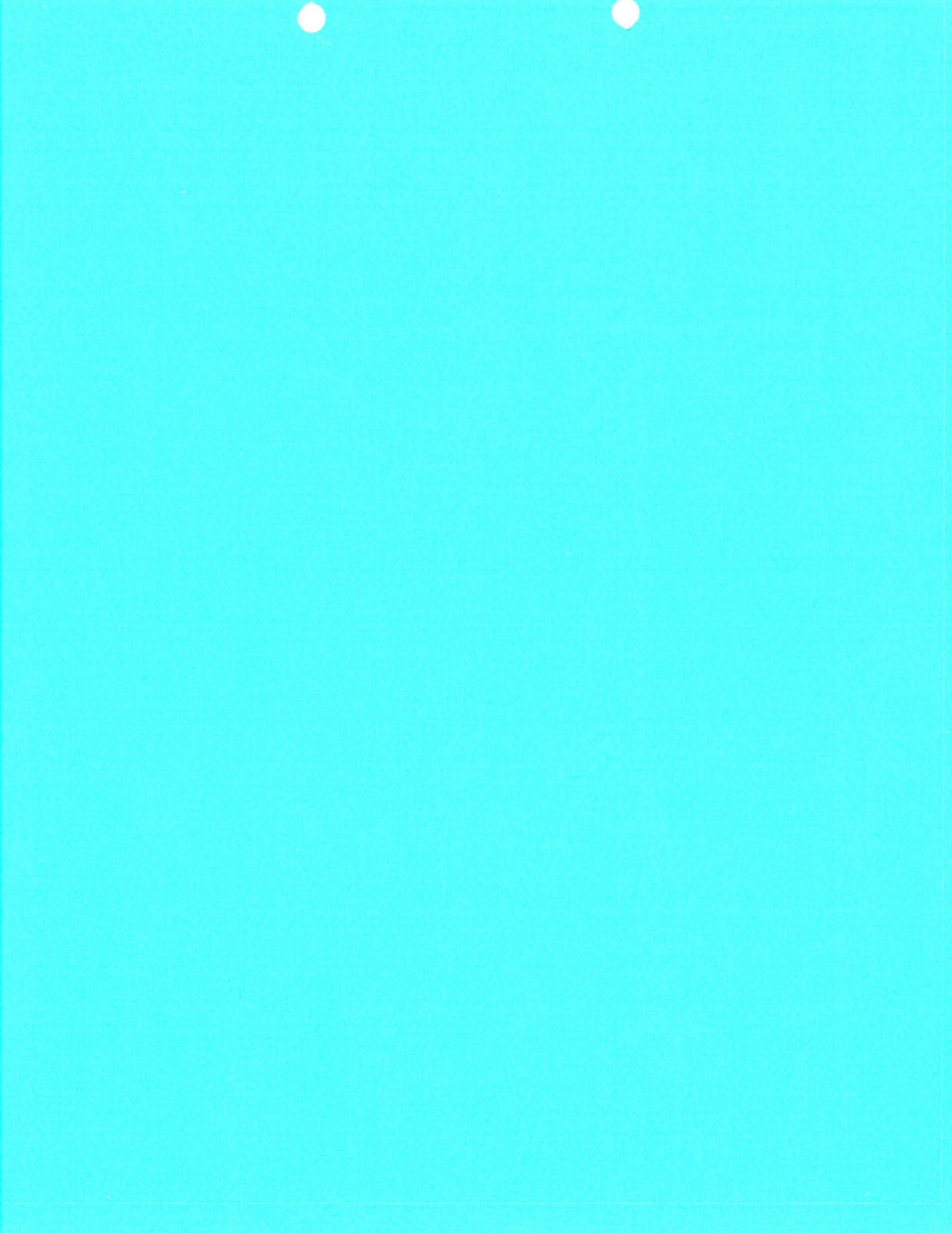
Charge III: Violation of the UCMJ, Article 133 (Continued)

Specification 3 (*Conduct Unbecoming an Officer and a Gentleman*): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 13 July 2022 and on or about 4 May 2023, and while married, converse with indecent language with persons he believed to be prostitutes, and that under the circumstances, the Accused's conduct was unbecoming an officer and a gentleman.

Specification 4 (*Conduct Unbecoming an Officer and a Gentleman*): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 1 April 2022 and on or about 4 May 2023, send pictures of his genitals to persons he believed to be minors who had not attained the age of 16 years, and that under the circumstances, the Accused's conduct was unbecoming an officer and a gentleman.

[AND NO OTHERS]

ORIGINAL



Volume

2

of Volumes

2

CERTIFIED RECORD OF TRIAL

(and accompanying papers)

of

Alvey

Douglas

J.

Capt/O-3

(Last Name)

(First Name)

MI

(DoD ID No.)

(Rank)

7th ESB, 1st MLG

USMC

Camp Pendleton, California

(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)

1st Marine Logistics Group

(Unit/Command of Convening Authority)

Tried at

Camp Pendleton, California

On

27 September 2023, 27 October 2023

(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

Full Transcript

Prosecution Exhibits 1-4

Defense Exhibit A

Appellate Exhibits I-V

Accused was confined at (name of confinement facility, if applicable):
Camp Pendleton Base Brig

Accused was assigned to (if different than confinement facility):

CERTIFIED RECORD OF TRIAL
of

Douglas

Alvey

J.

Capt/O-3

(First Name)

(Last Name)

(DOD ID No.)

MI

(Rank)

7th ESB, 1st MLG

USMC

Camp Pendleton, California

(Unit/Command Name)

(Branch of Service)

(Location)

Camp Pendleton, California

On

27 September 2023, 27 October 2023

(Place or Places of Trial)

(Date or Dates of Trial)

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TRIAL EXHIBITS

in the case of United States v. Alvey, Douglas J.

ADD / DELETE	NUMBER OR LETTER	DESCRIPTION (list prosecution and defense exhibits in the following order: offered and admitted, offered and not admitted; indicate whether any exhibit is sealed)	PAGE AND TIMESTAMP WHERE:			
			OFFERED		ADMITTED / NOT ADMITTED	
			TRANSCRIPT PAGE #	TIMESTAMP MM:DD:HH:MM	TRANSCRIPT PAGE #	TIMESTAMP MM:DD:HH:MM
☐ + ☐ -	1	Stipulation of Fact	24		27	
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☐ + ☐ -						
☐ + ☐ -						
☐ + ☐ -						

TRIAL EXHIBITS PRE-MARKED BUT NOT OFFERED & NOT ADMITTED

ADD / DELETE	NUMBER OR LETTER	DESCRIPTION (list all exhibits pre-marked for identification but not offered or admitted here; indicate whether any exhibit is sealed)
☐ + ☐ -		
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APPELLATE EXHIBITS

ADD / DELETE	NUMBER OR LETTER	DESCRIPTION (list all exhibits pre-marked for identification but not offered or admitted here; indicate whether any exhibit is sealed)
☐ + ☐ -	I	Trial Management Order
☐ + ☐ -	II	Notice of Appearance (Mr. Stackhouse)
☐ + ☐ -	III	Plea Agreement
☐ + ☐ -	IV	Appellate Rights Advisement Form
☐ + ☐ -	V	802 Email Traffic
☐ + ☐ -		
☐ + ☐ -		
☐ + ☐ -		

COURT EXHIBITS

ADD / DELETE	NUMBER OR LETTER	DESCRIPTION (include victim impact statements and unsworn statements here)
☐ + ☐ -	Pg. 110	Unsworn Statement through Counsel
☐ + ☐ -	Pg. 113	Accused's Unsworn Statement
☐ + ☐ -		
☐ + ☐ -		
☐ + ☐ -		
☐ + ☐ -		
☐ + ☐ -		

PROCEEDINGS OF A GENERAL COURT-MARTIAL

The military judge called the Article 39(a) session to order at Marine Corps Base Camp Pendleton, California, at 0935, 27 September 2023, pursuant to the following order:
General Court-Martial Convening Order #1-23, 1st Marine Logistics Group, Fleet Marine Force, dated 17 July 2023.

[END OF PAGE]

[The Article 39(a) session was called to order at 0935,
27 September 2023.]

MJ: This general court-martial is called to order at Marine Corps Base Camp Pendleton, California, in the case of *United States v. Captain Douglas J. Alvey, U.S. Marine Corps.*

Trial counsel, please state the jurisdictional data for the court-martial, followed by your qualifications.

TC: Yes, sir. This court-martial is convened by Court-Martial Convening Order -- General Court-Martial Convening Order #1-23, dated 17 July 2023; copies of which have been furnished to the military judge, counsel, and the accused; and which will be inserted into the record.

The charges have been properly referred to this court for trial and were served on the accused on 21 September 2023.

The five-day period has expired.

The prosecution is ready to proceed with the arraignment in the case of *United States v. Captain J. Alvey.*

The accused and the following persons of this court are present:

Myself, Lieutenant Colonel Christian Hur and Captain Tommy Sommer, ASSISTANT TRIAL COUNSEL.

Defense counsel -- CIVILIAN DEFENSE COUNSEL, Mr. Philip

Stackhouse, and;

MILITARY DEFENSE COUNSEL, Captain Kate Malcolm; and

THE MILITARY JUDGE, Colonel Douglas Hatch.

The members are absent.

Corporal Ramirez has been detailed as reporter for the court and has been previously sworn.

All members of the prosecution have been detailed to this court-martial by Lieutenant Colonel Jesse Schweig, the Regional Trial Counsel-West, and are qualified and certified under Article 27(b) and sworn under Article 42(a) of the Uniform Code of Military Justice, and no member of the prosecution has acted in any manner which might tend to disqualify us in this court-martial.

MJ: Have there been any Article 30(a) proceedings in this case?

TC: Yes, sir. I'll have Captain Summer describe those. Yes, there have been, sir. Do you need a description now?

MJ: I don't need a description, but they need to be part of allied papers -- any record of those proceedings?

TC: Okay. May we take care of that after the arraignment?

MJ: Sure. Just make sure you do that, okay?

TC: All right. Yes, sir.

MJ: But there have been Article 30(a) proceedings in this case then?

TC: Yes, sir.

MJ: Okay. Thank you very much.

TC: We'll make sure they're part of the record.

MJ: Okay. Thank you, you may be seated.

TC: Yes, sir.

MJ: Are you Captain Douglas J. Alvey, U.S. Marine Corps, the accused in this case?

ACC: Yes, sir, I am.

MJ: Okay. Thank you for the right of courtesy. You can go ahead and take your seat and you can remain seated throughout the remainder of this proceeding unless I directly tell you, okay.

ACC: Yes, sir.

MJ: Thanks for the courtesy, though.

Captain Alvey, the first thing I'm going to do is go over what's called your rights to counsel.

All right. So you have the right to be represented by Captain Malcolm, who is your detailed military defense counsel, and, of course, Mr. Stackhouse as well. Captain Malcolm is a lawyer certified as actually qualified as your defense counsel, and her services are provided at no expense to you. You also

have the right to be represented by military counsel of your own selection, provided that that military counsel is reasonably available.

If you were represented by military counsel of your own selection, then your detailed defense counsel would normally be excused. However, you could request that your detailed defense counsel continue to represent you, but your request would not have to be granted.

Do you understand everything I've said so far?

ACC: Yes, sir.

MJ: And in addition to your military defense counsel, you have the right to be represented by civilian counsel at no expense to the government. Civilian counsel may represent you along with your military defense counsel, or you could excuse your military defense counsel and be represented only by your civilian defense counsel.

Do you understand that?

ACC: Yes, sir.

MJ: Do you have any questions about your rights to counsel?

ACC: No, sir.

MJ: And by whom do you wish to be represented?

ACC: Captain Malcolm and Phillip Stackhouse.

MJ: And do you want to be represented by any other military or civilian counsel?

ACC: No, sir.

MJ: All right. Defense counsel, please announce your detailing and qualifications.

DC: I've been detailed to this court-martial by the former senior defense counsel, Major Andrew Lewis. I am qualified and certified under Article 27(b) and sworn under Article 42(a), Uniform Code of Military Justice. I have not acted in any manner that might tend to disqualify me in this court-martial.

MJ: Thank you. Mr. Stackhouse?

CDC: Yes, sir. I've been previously certified and sworn in accordance with Articles 26(b), 27(b), and 42(a), Uniform Code of Military Justice. I'm licensed to practice for the highest courts in the commonwealth of Massachusetts, District of Columbia; states of North Carolina, Colorado, and Wyoming. I haven't acted in any manner which may tend to disqualify me either.

MJ: Thank you. And your notice of appearance, thank you for providing that. That's Appellate Exhibit II.

[The civilian defense counsel was sworn in.]

MJ: All right. So I presume there's no victim legal

counsel in this case?

TC: No, Your Honor. No VLC.

MJ: All right. I detailed myself to this court-martial as the Circuit Military Judge of the Western Judicial Circuit, Navy-Marine Corps Trial Judiciary. I'm certified and sworn as a military judge in accordance with Articles 26(b) and (c) and 42(a) of the UCMJ. I'm not aware of any matter that I believe may be a ground for challenge against me. However, I invite both voir dire and challenged by either side.

TC: No challenge from the government, sir.

DC: Nothing, sir.

MJ: Very well. So we had an R.C.M. 802 conference, just one in this case held, just prior to going on the record in the presence of all counsel, as well as the accused. We discussed trial dates. The parties had provided a proposed trial management order, which the Court then modified fairly significantly.

In addition, we discussed a couple of appellate exhibits that the government had marked that the Court ended up removing. I didn't find them pertinent to anything happening here today.

I believe that's all we talked about, but do counsel

for both sides concur with my summation, and do you have anything to add?

TC: Government concurs. Nothing to add, sir.

DC: Concur and nothing, sir.

MJ: Thank you.

So to reference, we have a trial management order that we discussed in the R.C.M. 802 conference that is now marked as Appellate Exhibit I.

Do counsel for either side have any objection to the dates contained in Appellate Exhibit I?

TC: No objection to Appellate Exhibit I dates, sir.

DC: Nothing, sir.

MJ: All right. So the dates and Appellate Exhibit I are accepted by the Court and are hereby ordered as the deadlines in this case. Counsel, I would advise that in order to deviate from these judicially ordered deadlines, you must show good cause and obtain leave from court, prior to that date coming to pass.

At this time, counsel for both sides appear to have the requisite qualifications and all personnel required to be sworn have been sworn.

Trial counsel, please announce the general nature of the charges in this case.

TC: Yes, sir. The general nature of the charges in this case are as follows:

Charge I, violation of Article 80, UCMJ, Sexual abuse of a child involving indecent communications -- attempted.

Charge II, violation of the UCMJ, Article 120(b), sexual abuse of a child involving indecent exposure.

Charge III, violation of the UCMJ, Article 133, conduct unbecoming of an officer of a gentleman. Four specifications alleged.

And with regards to the preferral and the recommendations as to disposition, the charges were preferred by Corporal Dajuan Y. Adams.

And the Article 32 hearing in this case was waived. And the waiver took place on 1 August 2023 with the signatures of Mr. Stackhouse, Captain Malcolm and Captain Alvey. And the SJA wrote an Article 34 vice letter to the GCM CA on 20 September 2023, recommending referral of all charges and specifications to a GCM.

And the charges were referred by Brigadier General A.M. Niebel, 1st MLG CG, on 21 September 2023.

MJ: Very well. So, Captain Alvey, I understand you've waived the Article 32 preliminary hearing and I have it in front

of me as part of the allied papers, a 1 August 23 letter, signed by you, Mr. Stackhouse and Captain Malcolm indicating as such.

So have you discussed what an Article 32 preliminary hearing is with your defense counsel?

ACC: Yes, sir.

MJ: And you understand that no charge against you may be tried by a general court-martial -- or at a general court-martial without first having an Article 32 preliminary hearing concerning the charges, unless you otherwise agree.

Do you understand that?

ACC: Yes, sir.

MJ: Do you understand that you have the right to be present at the Article 32 preliminary hearing, and to be represented by your counsel at that preliminary hearing.

Do you understand that?

ACC: Yes, sir.

MJ: And you understand that you could cross-examine witnesses who testify at the preliminary hearing. You could present additional evidence in defense in mitigation relevant to the limited purposes of the hearing. And you could do that in order for the preliminary hearing officer to consider those items in writing at his or her recommendation.

Do you understand all of that?

ACC: Yes, sir.

MJ: And do you understand that you could have provided sworn or unsworn testimony at the Article 32 preliminary hearing?

ACC: Yes, sir.

MJ: I also need to make sure you understand that the purpose of the Article 32 preliminary hearing is to determine whether each specification alleges an offense, whether there's probable cause to believe he committed an offense, whether the convening authority has court-martial jurisdiction over the offense and you, and to recommend the disposition that should be made of the case.

Did you understand that that was the purpose of the preliminary hearing?

ACC: Yes, sir.

MJ: And you understand that if legally permissible, one possible strategy for you and your counsel at the preliminary hearing could have been an attempt to have the hearing officer recommend disposition of the charges other than trial by general court-martial. In other words, something other than a general court-martial.

Do you understand that?

ACC: Yes, sir.

MJ: And did you know about all these rights that you would have had at the Article 32 hearing at the time that you elected to give up that right to have the Article 32 preliminary hearing?

ACC: Yes, sir.

MJ: And you freely and willingly agree to proceed to trial by general court-martial without an Article 32 preliminary hearing occurring in your case?

ACC: Yes, sir.

MJ: Very well. Captain Alvey, the next thing I'm going to do is go over what's called forum rights. So you have the right to be tried by a court consisting of eight members. After impanelment as a result of excusals, the court could be reduced to no fewer than six members. You're also advised that no member of the court would be junior in rank to you. The members of the court will be commissioned officers.

Do you understand what I've said so far?

ACC: Yes, sir.

MJ: If you're tried by court members, the members will vote by secret, written ballot, and three-fourths of the members must agree before you could be found guilty of any offense. If you're found guilty in a trial with members, you'd have the option of

electing sentencing by military judge or sentencing by court members.

If you elect to be sentenced by court members, then again, the court's three-fourths of the members must agree in voting on a sentence. If you do not elect to be sentenced by the members, then the military judge would decide an appropriate sentence for you.

Do you understand the difference between trial before members and trial before military judge alone?

ACC: Yes, sir.

MJ: Do you understand the choices that you have?

ACC: Yes, sir.

MJ: By what type of court do you wish to be tried, or in the alternative, do you wish to reserve forum selection at this time?

DC: Sir, we would like to reserve.

MJ: Very well. And that request is granted in accordance with the trial management order.

All right. The accused will now be arraigned.

Defense counsel, do you desire that the charges be read?

DC: We will waive the reading, sir.

MJ: The reading will be omitted.

Accused and counsel, please rise.

[The accused and defense counsel did as directed.]

MJ: Captain Douglas J. Alvey, U.S. Marine Corps, I now ask you, how do you plead? However, before receiving your plea I advise you that any motions to dismiss or to grant other appropriate relief should be made at this time.

Your defense counsel can also request to reserve entry of pleas and filing of motions in accordance with the trial management order. And your defense counsel will now speak for you.

DC: We'd like to reserve, sir.

MJ: Very well. And you're reserving motions as well as motions of forum, correct?

DC: Motions and pleas. Yes, sir.

MJ: All right. Very well. You may all be seated.

So we're going to do all those things in accordance with the trial management order.

Mr. Stackhouse, is your client still in pretrial confinement?

DC: Yes, sir. I explained 804 warnings to him, but he is prepared to receive them if you want to give them.

MJ: Trial counsel, do you want me to give the 804 warnings?

TC: I'm sorry. I can't hear with the air conditioner.

MJ: Do you want the Court to give 804 warnings? R.C.M. 804 warnings?

TC: It's not necessary, sir.

MJ: Very well. All right. Anything else from counsel before the court recesses?

TC: Nothing further from the government, sir.

DC: No, sir.

MJ: All right. Court martial's in recess.

[The Article 39(a) session recessed at 0949, 27 September 2023.]

[END OF PAGE]

[The Article 39(a) session was called to order at 0958,
27 October 2023.]

MJ: This general court-martial is called to order at Marine
Corps Base Camp Pendleton, California, in the case of *United
States v. Douglas Alvey, U.S. Marine Corps.*

All parties previously present when the court recessed
are again present, with the exception of the military judge,
Colonel Douglas Hatch, who has been replaced by me, Lieutenant
Colonel ^{Aran} ~~Aaron~~ Walsh. Additionally, Corporal Wesley Moses is
taking over as the court reporter, and he's previously been
sworn.

I've been detailed to this court-martial by Colonel
Douglas Hatch, the Circuit Military Judge of the Western Judicial
Circuit Navy-Marine Corps Trial Judiciary. I am certified and
sworn as a military judge in accordance with Articles 26(b) and
(c) and 42(a) of the Uniform Code of Military Justice. I'm not
aware of any matter that I believe may be grounds for challenge
against me. However, I invite both question and challenge by
either side.

Government?

ATC: None, Your Honor.

MJ: Defense counsel?

CDC: Nothing.

MJ: Okay. Thank you.

At an R.C.M. 802 conference, held between trial and defense counsel and the military judge, prior to coming on the record, the following matters were discussed:

On 17 October 2023, I notified the parties that I'd been detailed as the military judge on this case who would be replacing Colonel Hatch. Later that day on 17 October 23, the trial counsel informed the Court that they had provided the court reporter all 30(a) proceedings in this case, which have now been entered in as allied papers.

We also have had some e-mail correspondence outside the presence of the accused regarding some corrections that needed to be made to the plea agreement. Those e-mails will be included in the record as Appellate Exhibit V. The parties have since made those pen changes. The Court has reviewed the changes.

Additionally, prior to coming on the record and in the presence of the accused, we discussed the definition of indecent language. And for the purpose of Specification 3 of Charge III, the Court informed the parties that I would be pulling that definition from Article 134, indecent language, for the purpose of providency inquiry and establishing factual sufficiency for

the offense alleged in Article 133.

Additionally, I advised defense counsel that I'd be inquiring into potential waiver of failure to state an offense. And I'll get to that point for the waiver of motions inquiry in the script, and additionally^I advise^A that I might need to dive in to some of the factual sufficiency on specific instances on the charged offenses.

Do both trial and defense counsel concur with the Court's 802 summation or have anything to add?

ATC: Yes, Your Honor. Nothing to add, sir.

MJ: Defense?

CDC: Concur and nothing to add.

MJ: Thank you.

Are you Captain Douglas J. Alvey, the accused in this case?

ACC: Yes, sir.

MJ: Okay. Captain Alvey, I appreciate the -- Captain Alvey, go ahead and turn your mic on. Thank you.

Captain Alvey, I appreciate the military courtesy of standing. However, we're going to be going in depth into some legal rights and procedural issues here so you can have a seat until I tell you to stand, okay?

ACC: Okay.

[The accused did as directed.]

MJ: Captain Alvey, do you understand the difference between trial before members and trial before a military judge alone, as was explained to you by Colonel Hatch at the previous arraignment?

ACC: Yes, sir.

MJ: Do you understand the choices that you now have regarding your forum?

ACC: Yes, sir.

MJ: By which type of court do you wish to be tried?

ACC: Judge alone, sir.

MJ: Is your request for trial by military judge alone part of a pretrial agreement that you have with the convening authority?

ACC: Yes, sir.

MJ: At the time you signed the request, did you know that I would be the military judge in your case?

ACC: No, sir.

MJ: And knowing that I am now the military judge assigned to this case, do you still wish to proceed?

ACC: Yes, sir.

MJ: Is your request a voluntary one, and by that I mean, are you making this request on your own free will?

ACC: Yes, sir.

MJ: If I approve your request for a trial by me alone, you give up the right to be tried by a court composed of members.

Do you understand that?

ACC: Yes, sir.

MJ: Do you still wish to be tried by me alone?

ACC: Yes, sir.

MJ: Very well. Your request is approved.

This court-martial is assembled.

Before receiving the accused's pleas, I advise that any motions to dismiss or grant other appropriate relief should be made at this time.

Defense counsel, do you wish to raise any motions, including a motion pursuant to Article 10 or Article 13 of the Uniform Code of Military Justice?

CDC: No, sir.

MJ: Accused and counsel, please rise.

[The accused and defense counsel did as directed.]

MJ: Mr. Stackhouse, I apologize. Your mic wasn't on. You had mentioned that you do not intend to raise any motions,

including Article 10 or Article 13?

CDC: That's correct, sir.

MJ: Thank you. Defense counsel, how does the accused plead?

CDC:

To Charge I and the sole Specification thereunder:	Guilty.
To Charge II and the sole Specification thereunder:	Not Guilty.
To Charge III, Specification 1:	Guilty.
To Charge II -- excuse me, To Charge III, Specification 2:	Guilty.
To Charge III, Specification 3:	Guilty.
To Charge III, Specification 4:	Not Guilty.
To Charge III:	Guilty.

MJ: Thank you. You may be seated.

[The accused and defense counsel did as directed.]

MJ: Captain Alvey, has your counsel correctly stated your pleas?

ACC: Yes, sir.

MJ: Captain Alvey, your counsel has entered a plea of guilty for you. Specifically, to Charge I and its sole Specification thereunder, which is a violation of Article 80 of the Uniform Code of Military Justice, the attempted sexual abuse of a child involving indecent communications. Additionally, to

Specifications 1, 2, and 3 of Charge III in violation of Article 133 of the Uniform Code of Military Justice, which is conduct unbecoming an officer and a gentleman.

Your plea of guilty will not be accepted unless you understand its meaning and effect. I'm going to discuss your plea of guilty with you. You may consult with your defense counsel prior to answering any of my questions. If you have questions, feel free to ask them.

A plea of guilty is equivalent to a conviction, and it's the strongest form of proof known to the law. On your plea alone and without receiving any evidence, this Court can find you guilty of the offenses to which you have pled guilty. Your plea will not be accepted unless you realize that by your plea you admit every act or omission, and elements of the offense to which you have pled guilty, and that you are pleading guilty because you actually are guilty. If you do not believe that you are guilty, then you should not plead guilty for any reason.

Do you understand what I have said so far?

ACC: Yes, sir.

MJ: By your plea of guilty, you give up three important rights, but you give these rights up solely with respect to the offenses to which you have pled guilty:

First, the right against self-incrimination, that is, the right to say nothing at all;

Second, the right to a trial of the facts by this court, that is, your right to have this court-martial decide whether or not you are guilty based on the evidence the prosecution would present and on any evidence you may introduce;

Third, the right to be confronted by and to cross-examine any witnesses called against you.

Do you have any questions about these rights?

ACC: No, sir.

MJ: Do you understand that by pleading guilty you no longer have these rights with respect to the offenses to which you have pled guilty?

ACC: Yes, sir.

MJ: If you continue with your guilty plea, you'll be placed under oath and I will question you to determine whether you are guilty. Anything you tell me may be used against you in the sentencing portion of this trial.

Do you understand that?

ACC: Yes, sir.

MJ: If you tell me anything that is untrue, your statements may be used against you later for charges of perjury or making

false statements.

Do you understand this?

ACC: Yes, sir.

MJ: Trial counsel, please place the accused under oath.

[The accused was sworn.]

MJ: Okay. The court is aware that there's a stipulation of fact in this case and has been provided a copy, which I have at the judge's bench.

Defense counsel, does the accused have a copy of the stipulation of fact?

CDC: Yes, sir.

MJ: Prosecution Exhibit 1 for identification, a stipulation of fact. I read the stipulation of fact before coming on the record today.

Captain Alvey, did you sign that stipulation?

ACC: Yes, sir.

MJ: If you go to page 7, is that your signature there?

ACC: Yes, sir.

MJ: And you signed that on 27 September 2023?

ACC: Yes, sir.

MJ: Did you read this document thoroughly before you signed it?

ACC: Yes, sir.

MJ: Do counsel for both sides agree that their signatures appear on the stipulation of fact?

TC: Yes, sir.

CDC: Yes, sir.

MJ: Captain Alvey, a stipulation of fact is an agreement among the trial counsel, your defense counsel, and you that the contents of the stipulation are true and if entered into evidence, are uncontradicted facts in this case. No one can be forced to enter into a stipulation, so you should enter into it only if you truly want to do so.

Do you understand this?

ACC: Yes, sir.

MJ: Are you voluntarily entering into this stipulation because you believe it is in your best interest to do so?

ACC: Yes, sir.

MJ: If I admit this stipulation into evidence, it will be used in two ways:

First, I will use it to determine if you are guilty of the offenses to which you have pled guilty;

Second, I will use it to determine an appropriate sentence for you.

Do you understand and agree to these uses of the stipulation?

ACC: Yes, sir.

MJ: Captain Alvey, a stipulation of fact ordinarily cannot be contradicted. If it should be contradicted after I have accepted your guilty plea, I will reopen this inquiry. You should, therefore, let me know if there's anything you disagree with or that you feel is untrue.

Do you understand that?

ACC: Yes, sir.

MJ: Is everything in the stipulation true?

ACC: Yes, sir.

MJ: Is there anything in the stipulation that you do not wish to admit is true?

ACC: No, sir.

MJ: Do you agree under oath that the matters contained in the stipulation are true and correct to the best of your knowledge and belief?

ACC: Yes, sir.

MJ: Defense counsel, do you have any objections to Prosecution Exhibit 1 for identification?

CDC: No, sir.

MJ: Prosecution Exhibit 1 for identification is admitted into evidence subject to my acceptance of the accused's guilty plea.

Captain Alvey, I'm now going to explain the elements, of the offenses to which you have pled guilty. By "elements," I mean those facts which the prosecution would have to prove beyond a reasonable doubt before you could be found guilty -- if you had pled not guilty.

When I state each element, ask yourself two things: First, is the element true; and second, do you wish to admit that it is true? After I list the elements for you, be prepared to talk to me about the facts regarding the offense.

Do you have a copy of the charge sheet in front of you?

ACC: Yes, sir.

MJ: Before we get into the elements of the offenses, I want to cover some jurisdictional matters with you.

Are you currently an active duty officer in the U.S. Marine Corps?

ACC: Yes, sir.

MJ: On 1 April 2022, were you a member of the U.S. Marine Corps on active duty?

ACC: Yes, sir.

MJ: Have you been discharged or released from active duty since that date?

ACC: No, sir.

MJ: In each of the specifications, is your name, rank and service correctly stated and spelled?

ACC: Yes, sir.

MJ: Have you had an opportunity to review those?

ACC: Yes, sir.

MJ: In block 5 of the charge sheet, is your unit and organization correctly stated and spelled?

ACC: Yes, sir.

MJ: Please look at Specification 1 of Charge I. There you pled guilty to the attempt of sexual abuse of a child involving indecent communication, which is a violation of Article 80 of the Uniform Code of Military Justice. The elements of that offense as charged are:

That at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 11 January 2023 and on or about 11 April 2023, you did certain overt acts, that is, an attempt to commit a lewd act upon a child;

That the acts were done with a specific intent to

commit the offense of sexual abuse of a child by indecent communications in violation of Article 120(b);

That the act amounted to more than a mere preparation, that is, it was a substantial step and a direct movement towards the commission of the intended offense; and

That such acts apparently tended to bring about the commission of the offense of sexual abuse of a child by indecent communications, that is, the acts apparently would have resulted in the actual commission of the offense of sexual abuse of a child, by indecent communication except for circumstances unknown to you.

Here it appears the circumstances is that the person you believed to be a child was in reality an undercover law enforcement officer assuming an online persona of a child, which prevented the completion of the offense of sexual abuse of a child.

The following definitions apply to Article 80:

"Attempts." Preparation consists of devising or arranging the means or measures necessary for the commission of the attempted offense. To find you guilty of this offense, the fact finder must first find beyond a reasonable doubt that you went beyond preparatory steps and that your acts amounted to a

substantial step and a direct movement towards the commission of the intended offense.

A "substantial step" is one that is strongly corroborative of your criminal intent and is indicative of your resolve to commit the offense. Proof that the offensive sexual abuse of a child by indecent communication actually occurred or was completed by you are not required. However, it must be proven beyond a reasonable doubt that at the time of the acts you intended every element of sexual abuse of a child by indecent communications in violation of Article 120(b).

The elements of the attempted offense of 120(b) are that at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 11 January 2023, and on or about 11 April 2023, you committed a lewd act upon a child by indecent communication, and that at the time of the lewd act the child had not attained the age of 16.

The following definitions apply to the offense of 120(b), sexual abuse of a child by indecent communication:

"Lewd act," for the purposes of the sexual abuse of a child by indecent communication, means intentionally communicating indecent language to a child by any means, including via any communication technology with the intent to

abuse, humiliate or degrade any person, or to arouse or gratify the sexual desire of any person or -- excuse me, of any person or yourself.

"Child" means any person who has not attained the age of 16 years.

The prosecution is now required to prove you knew the age of the person at the time of the alleged sexual acts occurred. As this is charged as an attempt, the evidence has raised the issue that it was impossible for you to have committed the offense of sexual abuse of a child because the person you believed to be a child was an adult law enforcement officer who had assumed an online persona of a child.

If the facts were as you believe them to be, and under those facts your conduct would constitute the offense of sexual abuse of a child, you may be found guilty of the attempted sexual abuse of a child by indecent communications, even though under the facts as they actually existed, it was impossible for you to complete the offense of sexual abuse of a child. The burden of proof to establish your guilt beyond a reasonable doubt is upon the government.

If all the elements of sexual abuse of a child are satisfied beyond a reasonable doubt, as I have explained them to

you with the exception of the actual age and identity of the child, then you may be found guilty of the attempted sexual abuse of a child based on your specific intent to commit the offense, even though under the facts as they actually existed, it was impossible for you to commit that offense.

Do you understand the elements and definitions as I've read them to you?

ACC: Yes, sir.

MJ: Do you have any questions about any of them?

ACC: No, sir.

MJ: Do you understand that your plea of guilt admits that these elements accurately describe what you did?

ACC: Yes, sir.

MJ: Do you also believe and admit that the elements and definitions taken together correctly describe what you did?

ACC: Yes, sir?

MJ: At this time, I want you to tell me why you are guilty of the offense listed in Charge I and its sole Specification thereunder. Tell me in your own words what happened.

ACC: Sir, within the time period mentioned within the stipulation of fact, I did engage in indecent communications with a person who at the time went by the name of Nicole. I met this

person in a public chat room where she described herself as being under the age of 16. I held myself out to be 18 in these chats. These indecent communications persisted for approximately 10 days through text messaging and two phone calls. These communications contained sexual elements that were obscene and wrong.

MJ: Thank you. So you said that between 11 January and 11 April 2023, you did engage in what you describe as -- well, excuse me, you did engage in conversation with somebody named Nicole?

ACC: Yes, sir.

MJ: And you believed Nicole to be under 16?

ACC: Yes, sir.

MJ: How old did you believe Nicole to be?

ACC: She said that she was 13 and I had no reason to think otherwise.

MJ: Where did she say she was 13?

ACC: During our communications, she said that.

MJ: Do you recall whether that was over a text message or a phone call?

ACC: A phone call.

MJ: Did you believe Nicole to be a male or a female?

ACC: Female.

MJ: So in the stipulation of fact, I believe it says that you told Nicole you were in New York, but the charge says California.

What was the location that you were at when you were communicating with Nicole?

ACC: I was here in California, sir.

MJ: So when you said you were in New York, was that part of the persona that you had adopted to talk to Nicole?

ACC: Yes, sir.

MJ: Do you believe that some of the specific comments you made to Nicole, over both text and on the phone, qualify as a lewd act as I have defined the term to you?

ACC: Yes, sir.

MJ: What are some of the specific comments, that you made to the person you believed to be Nicole, that you believe amount to indecent comments or a lewd act?

ACC: My comments about wanting to engage in sexual activities with that individual all constitute lewd acts based on the definition that you provided, sir.

MJ: What are some of the specific comments or statements you made to her?

ACC: I made specific comments regarding engaging in sexual

actions with the individual, as well as engaging in other forms of sexual activity, to include oral and other forms of sexual relations. With regards to specific words and languages, I would need to review the actual text messages, but I know that all the communications amount to sexually explicit words and phrases that constitute the definition of lewd.

MJ: When you were talking to the person you believed to be named Nicole, you said you talked about sexual desires?

ACC: Yes, sir.

MJ: Did you express a desire to engage in sexual activity with Nicole?

ACC: Yes, sir.

MJ: And did you -- is that penile to vaginal sexual activity?

ACC: Yes, sir.

MJ: And do you recall specifically making that statement about that sexual act?

ACC: Yes, sir.

MJ: And then, at the time you made that statement, did you believe her to be 13 years old?

ACC: Yes, sir.

MJ: When you talked about other forms of sexual activity,

you said oral, correct?

ACC: Yes, sir.

MJ: All right. Was that her performing oral on you or you performing oral on her?

ACC: Possibly both.

MJ: Do you want to take a moment to -- you can take a moment to review the evidence or consult with your defense counsel and reflect upon your memories?

ACC: Both, sir.

MJ: Both. Okay. And at the time you -- when the Court says "oral," it's short for oral sex or sexual acts involving oral copulation.

When you made these comments about oral sex, did you believe her to be 13 years old?

ACC: Yes, sir.

MJ: So sexual comments on their own aren't inherently indecent or lewd.

What do you believe qualified your comments to the person you believed to be Nicole, as a lewd act?

ACC: They're lewd acts because they are of a sexual nature. And I understood at the time that individual to be under the age of 16 and therefore a child, so all those communications are

lewd.

MJ: Okay. So you think that the context in the individual directed to them contributed to the indecent nature of them?

ACC: Yes, sir.

MJ: So "divers occasions" means you committed this offense more than once.

Did you, in fact, send the online persona Nicole indecent communications on more than one occasion?

ACC: Yes, sir.

MJ: If you had to estimate -- I'm asking for an estimation here. How many times do you believe you had communications with Nicole that amounted to indecent communications?

ACC: I couldn't tell you a specific number, but I do know that it was regular back-and-forth communications by text messages, as well as two phone calls, approximately an hour in length, that on many occasions consisted of lewd, indecent language. And those communications persisted for approximately 10 days.

MJ: Was the primary topic of these communications sexual in nature?

ACC: Many times it was. Yes, sir.

MJ: And for time-framing, did you come to believe that

Nicole was 13 at the beginning -- at the very beginning of your actions with her?

ACC: Yes, sir.

MJ: So all of these later communications that we're talking about, you believed to be with the 13 year old?

ACC: Yes, sir.

MJ: And, for clarity, when we say dozens of communications back-and-forth -- at the time period that this is occurring is 11 January 2023 and 11 -- between 11 January 2023 and 11 April 2023?

ACC: Yes, sir. It is within that period from January 11th to April 11th. However, the specific communications with the individual named Nicole occurred over approximately a 10-day span from, I believe, April 1st or 2nd to April 11th.

MJ: Okay. And you would agree that's within the charged time period of the Charge and Specification?

ACC: Yes, sir.

MJ: And did you intentionally make these comments to Nicole?

ACC: Yes, sir.

MJ: And you intended to make them, knowing that the person that you believed to be Nicole was 13 years old?

ACC: Yes, sir.

MJ: Why did you make intentional indecent communications to a person you believed to be a 13-year-old child?

ACC: Sir, my only goal through these conversations with that individual was to engage in an element of role-play that satisfied my desires at the time. That's why I held myself out to be younger and in a different location than where I actually was and am. And through these communications, I had no further goals other than to just communicate these sexually explicit communications.

MJ: You talked about satisfying your desires. What specific desires are you talking about?

ACC: My desires were just to engage in a role-play with -- as a younger -- I guess, with the persona of being a younger person with someone else younger. And with the overall intent of that, sir, being to gratify the sexual desires that I had at the time.

MJ: So to be specific, you sent sexual communications to a person you believed to be 13 to arouse or gratify your sexual desires?

ACC: Through the role-play that I was having with that individual. Yes, sir.

MJ: Well, did the fact that the individual was 13, or you believed the individual to be 13, did that -- was that part of your attempt to gratify your sexual desires?

ACC: Yes, sir.

MJ: So I want to make sure that we're clear that your intent was to sexually communicate with a 13 year old, not that your intent was to role-play with a 13 year old.

So was your intent here to send sexual communications to a 13 year old?

ACC: Yes, sir.

MJ: Okay. But you, in doing so, you used this role-playing to do that?

ACC: Yes, sir.

MJ: Do you believe and admit that your actions were more than merely preparatory steps; that as they were clearly a substantial step made directly towards the commission of the sexual abuse of a child by indecent communications?

ACC: Yes, sir.

MJ: How so?

ACC: Based on the age of the individual that was communicated to me, I still intentionally engaged in indecent communications with a person under the age of 16.

MJ: Do you believe by -- well, what kind of messages were you using? What messaging app?

ACC: Initially, sir, it was a public chat room that -- engaged in private messaging through that chat room, specifically chat room called "Chat Avenue." Then, after that, through just text messaging and two phone calls.

MJ: So every time you drafted a sexual message and then clicked send on Chat Avenue, do you think that was a substantial step?

ACC: Yes, sir.

MJ: So you would agree that if there had been a 13 year old on the other end, she would have received the sexual content?

ACC: Yes, sir.

MJ: Do you also believe and admit that your attempts would have been successful, but for the fact that the child you believed to be named Nicole was actually an undercover law enforcement officer, which prevented the completion of the offense?

ACC: Yes, sir.

MJ: Earlier, you talked to me about your intent to arouse and gratify your sexual desire.

Did you have an intent to arouse and gratify the sexual

desire of any other person?

ACC: No, sir.

MJ: So specifically your sexual desire?

ACC: Yes, sir.

MJ: Who do you now know the child known as "Nicole" to be?

ACC: I know that that individual was, in fact, an undercover law enforcement officer in the state of New York.

MJ: And, to be clear, that at the time of the communications, you believe Nicole to be 13, but now you know that she was a law enforcement officer?

ACC: Yes, sir.

MJ: Did anyone force you to send these messages?

ACC: No, sir.

MJ: Could you have avoided sending these messages if you wanted to?

ACC: Yes, sir.

MJ: Have you reviewed the government's evidence in this case?

ACC: Yes, sir. I've reviewed enough of the incriminating evidence to understand it.

MJ: Mr. Stackhouse, do you believe that the government has complied entirely with their discovery obligations?

CDC: Yes, sir.

MJ: Okay.

CDC: I just -- you know, the issue is some of this stuff is difficult to review because he's in pretrial confinement. But he's been over at the office as we've gone through the chat logs. We've gone through the spreadsheets.

MJ: Okay.

CDC: So, yes, sir. They have.

MJ: Okay. I understand.

CDC: But more than enough.

MJ: Okay. Thank you.

And, Captain Alvey, is it the nature of the way that the evidence is presented and the voluminous nature of it that has led you to say you've reviewed most of it?

ACC: Yes, sir.

MJ: Now, did you specifically discuss sexual -- have discussions of a sexual nature with the person you believed to be Nicole over text communication?

ACC: Yes, sir.

MJ: And you've reviewed the government's evidence and you believe that's a fair and accurate representation of the communications you had?

ACC: Yes, sir.

MJ: And did you also have sexual conversations with the person you believed to be Nicole over telephone?

ACC: Yes, sir.

MJ: And have you reviewed the government's evidence on that matter?

ACC: Yes, sir.

MJ: And you believe that's a fair and accurate representation of that?

ACC: Yes, sir.

MJ: Okay. Government, I don't have the evidence yet, so I'm not -- I have a clear understanding of what the accused is talked about so far.

But do you believe any additional inquiry is necessary on this charge and specification?

ATC: No, Your Honor.

MJ: Okay. Defense, do you believe any additional inquiry is necessary as to Charge I and its sole Specification?

CDC: No, sir.

MJ: Allow me one moment to check my notes.

CDC: Sir, can we take a short recess? I don't think we need to depart the courtroom, I just want to have a conversation

with the prosecutor real quick.

MJ: Absolutely. How long do you need?

CDC: Maybe five minutes, sir.

MJ: Okay. Court's in recess.

[The court-martial recessed at 1036, 27 October 2023.]

[The court-martial was called to order at 1059, 27 October 2023.]

MJ: This court-martial is called back to order. All parties previously present when the court recessed are again present.

During the recess, we had a brief 802 where the Court advised that I'd be inquiring a little bit more into specific acts on the Specification of Charge I. In response to that, the government advised that they would be seeking to admit, ^{what} ~~But~~ I have here, at the judge's bench, as Prosecution Exhibit 3 for identification, which is a six-page exhibit, which appears to be a transcript of the phone conversation between the accused and the online persona, Nicole.

And Prosecution Exhibit 4 for identification, which is a five-page exhibit, which appears to be text messages between the accused and the online persona, Nicole. The Court was advised that while the government would be seeking to admit these as prosecution exhibits, the defense did not have any objection

and that the government would also be seeking to admit the 3270, which is the military data on the accused, at this time as well.

Do both parties concur with the court's 802 summation or have anything to add?

ATC: Yes, Your Honor. The government concurs and would just add that what's been marked as Prosecution Exhibit 3 for identification is a transcript as you describe it and it is an investigative action dated 1 May from the NCIS ROI.

MJ: Thank you. That's a good clarification. So that transcript is captured in an investigative action as part of the ROI?

ATC: Yes, sir.

MJ: Okay. Thanks, trial counsel. Thanks for that clarification, I appreciate it.

And, Mr. Stackhouse, do you concur or have anything to add?

CDC: Concur and nothing to add, sir.

MJ: All right. With that, government, let's take a moment here to work through the admission of exhibits that the Court may use in its providency inquiry.

ATC: Yes, Your Honor. So, at this time, with the concurrence of defense counsel, the government moves to introduce

what's been previously marked as Prosecution Exhibit 2 for identification, striking the words "for identification" from the record, sir.

MJ: And that is the 3270 report?

ATC: Yes, Your Honor.

MJ: Defense counsel, do you have any objection to that?

CDC: No, sir.

MJ: And obviously you understand that it being admitted at this -- all of these exhibits being admitted at this phase will go towards the finding, in addition to the sentencing?

CDC: Yes, sir.

MJ: Absent any objection from the defense, Prosecution Exhibit 2 for identification is admitted into evidence. The words "for identification" are deleted.

Trial counsel, you may proceed.

ATC: Thank you, Your Honor. And the government moves to introduce what's been previously marked as Prosecution Exhibit 3 for identification, striking the words "for identification" from the record.

MJ: Defense, any objection?

CDC: No, sir.

MJ: Absent defense objection, Prosecution Exhibit 3 for

identification is admitted. The words "for identification" are deleted.

Trial counsel?

ATC: And, finally, at this time, Your Honor, the government moves to introduce what's been previously marked as Prosecution Exhibit 4 for identification, striking the words "for identification" from the record, sir.

MJ: Defense counsel, any objection?

CDC: No, sir.

MJ: Absent defense objection, Prosecution Exhibit 4 for identification is admitted. The words "for identification" are deleted.

Captain Alvey, we're going to kind of circle back on the Specification of Charge I, in light of the additional exhibits which have been admitted in support of the providency inquiry, okay?

ACC: Yes, sir.

MJ: Okay. So I'm holding here Prosecution Exhibit 2, which is a printout of your -- basically your military record, as far as your biographical data, training, individual information.

Do you agree that Prosecution Exhibit 1 establishes that you are, in fact, on active duty? Or excuse me, Prosecution

Exhibit 2 establishes that you're on active duty?

ACC: Yes, sir.

MJ: Now, have you had a chance to look at Prosecution Exhibit 3?

ACC: Yes, sir.

MJ: So that appears to be a transcript between you and the persona, Nicole.

Do you agree that's what it is?

ACC: Yes, sir.

MJ: Do you agree that it appears to be a fair and accurate depiction of that conversation?

ACC: Yes, sir.

MJ: Obviously, that conversation was spoken; correct?

ACC: Yes, sir.

MJ: But this has been reduced into written form?

ACC: Yes, sir.

MJ: Now, taking that fact that it's been transcribed, do you still believe that it accurately captures the nature of the conversation?

ACC: Yes, sir.

MJ: Is there anything in this transcript of the conversation that you do not believe is true?

ACC: No, sir.

MJ: As far as when I say, "true," that you don't believe it was reflected in the manner that it was originally spoken?

ACC: Yes, sir.

MJ: Okay. Now, I'm turning to Prosecution Exhibit 4, which has been admitted. And it is a printout of the text conversation between you and the online persona, Nicole.

Have you had a chance to review that?

ACC: Yes, sir.

MJ: And do you believe that's a fair and accurate representation of the conversation that you had with her?

ACC: Yes, sir.

MJ: Okay. So as the Court reviews Prosecution Exhibit 4, there appears to be conversations about what specific types of sexual positions you would want to engage in.

Do you recall making those statements?

ACC: Yes, sir.

MJ: And it also talks about the level of desire to engage in sexual acts.

Do you remember that?

ACC: Yes, sir.

MJ: Now I'm turning to Prosecution Exhibit 3. There,

again, it talks about the desire to have sex with the online persona, Nicole.

Do you agree that that's actually what the nature of the conversation was?

ACC: Yes, sir.

MJ: Captain Alvey, how did you first start interacting with the online persona, Nicole?

ACC: Through the online chat room, Chat Avenue.

MJ: Did you have the intent to talk to somebody at that time that was the age -- was younger in age?

ACC: Yes, sir.

MJ: So you don't feel that the online persona, Nicole, sought you out to start talking to you?

ACC: No, sir.

MJ: Okay. Do counsel believe any further inquiry is required at this point?

ATC: No, Your Honor.

CDC: No, sir.

MJ: Thank you. And I'll note for the record that the Court has reviewed Prosecution Exhibit 3 and 4 in its entirety. All right.

Captain Alvey, now, I'd like you to turn to

Specification 1 of Charge III. There you are charged with the offense of conduct unbecoming an officer and a gentleman, in violation of Article 133 of the Uniform Code of Military Justice.

Do you need a moment to find it?

ACC: I have it now, sir.

MJ: All right. I'll start over because it appeared like there was a little bit of paper shuffling going on.

So your charges of the offense of conduct unbecoming an officer and a gentleman in violation of Article 133 of the Uniform Code of Military Justice. By pleading guilty to this offense, you are admitting that the following elements are true and accurately described what you did:

That at or near Marine Corps Base Camp Pendleton, California, on diverse occasions, between on or about 1 April 2023 and 4 May 2023, you did certain acts, to wit: discuss your sexual desires with persons you believed to be minors but not attained the age of 16 years; and

That under the circumstances, your conduct was unbecoming an officer and a gentleman.

The term "gentleman" includes both male and female commissioned officer, cadets, and midshipmen. "Conduct unbecoming an officer and a gentleman" means, Action or behavior

in an official capacity, which in dishonor and/or disgracing the person as an officer, seriously compromises the officer's character as a gentleman, or action or behavior in an unofficial or private capacity which dishonor and/or disgracing the officer personally, seriously compromises the person standing as an officer."

There are certain moral attributes common to the ideal officer and the perfect gentleman, a lack of which is indicated by acts of dishonesty, unfair dealing in decency and decorum, lawlessness, injustice, or cruelty.

Not everyone is or can be expected to meet the unrealistically high moral standards. But there is limited tolerance based on customs and service and military necessity below which that personal standards of an officer, cadet, or midshipmen cannot fall without seriously compromising the person standing as an officer, cadet, or midshipmen or a person's character as a gentleman.

Do you understand the elements and definitions as I have read them to you?

ACC: Yes, sir.

MJ: Do you have any questions about any of them?

ACC: No, sir.

MJ: Do you understand that your plea of guilty admits that these elements accurately describe what you did?

ACC: Yes, sir.

MJ: Do you believe and admit that the elements and definitions taken together correctly describe what you did?

ACC: Yes, sir.

MJ: All right. Tell me in your own words why you believe you are guilty of Specification 1 of Charge III.

ACC: Sir, during the described time period, I did engage in inappropriate communications with individuals who stated in our conversations that they were under the age of 16. This was primarily done through online chat rooms and text messaging during that time period.

MJ: Were your actions here done in an official capacity or in your personal capacity?

ACC: Personal, sir.

MJ: You said you communicated in online chat rooms; is that correct?

ACC: Yes, sir.

MJ: Did you have any phone calls here as well?

ACC: No, sir.

MJ: What online chat applications or websites did you use?

ACC: For public chat room, Chat Avenue. That was the site. And then, as well as text messaging, Google Chat, and Skype. And -- Google Chat, sir.

MJ: Okay. So you used a variety of online chat applications?

ACC: Yes, sir.

MJ: Approximately how many minors do you believe that you had communicated with?

ACC: Sir, I reviewed the spreadsheets of the evidence and I believe it to be about half a dozen, around six.

MJ: About six? And that review of the evidence, does that comport with your recollection of events as well?

ACC: Yes, sir. It does.

MJ: How did you come to believe that these people had not obtained the age of 16?

ACC: At some point during our conversations, whether it be through the chat room or other means, they stated that they were under the age of 16.

MJ: Did they ever talk about subject matters that you believed would be indicative of somebody at a young age?

ACC: Yes, sir. They did.

MJ: So did they talk about, like, school and homework and

things like that?

ACC: Yes, sir.

MJ: Did any of them have their age in their profile I.D. or anything like that?

ACC: I cannot affirmatively recall that, sir, but it is possible that they did.

MJ: And did any of them have incorrect ages in their profile I.D. that said they were 18, but you later found out that they were younger?

ACC: Once again, sir, I can't affirmatively recall that, but that is possible.

MJ: Okay. But I want to make sure that you weren't under a mistaken impression that they were actually people that were older than 16.

ACC: Understood, sir.

MJ: And is that correct, you knew them to be under 16?

ACC: At some point. Yes, sir.

MJ: So let's snap the chalk line there. So at the point you found out that they were 16 -- or were not 16, they were younger than 16, did you then have sexual conversations with them after the fact?

ACC: Yes, sir.

MJ: Okay. Do you recall any of the names or screen names or any identifying feature about any of these people you believed to be under 16?

ACC: Yes, sir. After reviewing the evidence, there is one who had an identifying name that was conducted through a Google chat, and as well as several phone numbers.

MJ: So many of these names -- many of these individuals appeared to you as phone numbers?

ACC: Yes, sir.

MJ: All right. Could you give any specific examples about the type of conversations you had with these people that you believed to be under 16?

ACC: Yes, sir. I mean, similar in nature to the prosecution's exhibits three and four, but they were sexually explicit in nature discussing sexual acts that I desired to perform with that individual, as well as different locations and desires.

MJ: This charge is charged as divers occasions.

ACC: Yes, sir.

MJ: Which means it happened more than one time?

ACC: Yes, sir.

MJ: Did you have numerous sexual conversations with each of

the individuals?

ACC: I can't affirmatively recall the specifics of each one. I do know that some were more than once. Others may have just been once.

MJ: Okay. But between the charged time period, you committed the offense multiple times?

ACC: Yes, sir.

MJ: With multiple different individuals?

ACC: Yes, sir.

MJ: Based on your review of the evidence in this case, do you know the actual age of these people that you believed to be minors?

ACC: No, sir.

MJ: But at the time you were communicating with them, you had the belief that they were under 16?

ACC: Yes, sir.

MJ: And it was your specific intent to have these sexual conversations with people under 16?

ACC: Yes, sir.

MJ: Do you believe your conduct dishonored or disgraced to you as a person?

ACC: Yes, sir, I do.

MJ: Do you believe that your conduct seriously comprised your standing as an officer?

ACC: Yes, sir, I do.

MJ: Could you elaborate on that and tell me in your own words how you believe so?

ACC: The first one or the second one, sir?

MJ: That's a good point, thank you. Do you believe that your conduct dishonored or disgraced you as a person? Could you explain that in your own words?

ACC: Yes, sir. Sir, these actions were personally disgraceful to me, as well as being disrespectful towards my family. And they are contrary to the values that I was raised with. And there's no excuse for that.

MJ: And then let's turn to, do you believe that your conduct seriously comprised your standing as an officer?

ACC: Yes, sir, I do.

MJ: And then explain that in your own words, please.

ACC: Yes, sir. These actions were morally wrong and may bring my standing as an officer into disrepute. I could not be expected to uphold the standards of the Marine Corps while engaging in behavior like this.

MJ: Do you believe that if your conduct was known to the

force, that you'd be unable to lead Marines?

ACC: Yes, sir.

MJ: Do you believe that discussing sexual desires with people you believed to be minors who had not attained the age of 16, reflected indecency that was morally unfitting and unworthy of being an officer?

ACC: Yes, sir.

MJ: Do you agree that your actions were serious misbehavior as opposed as just merely inappropriate or merely in poor taste?

ACC: Yes, sir, I do.

MJ: How so?

ACC: Sir, as you stated in your definition, no one is expected to be perfect, but these actions are far below the acceptable standard that anyone should hold themselves to, and even further below what is expected of an officer in the Marine Corps.

MJ: Do counsel -- well, excuse me, actually. Captain Alvey, when you were sending these -- or having these conversations, what was your location?

ACC: Here in California, sir.

MJ: Were you sending it from -- while on base or off base?

ACC: I would say probably both, sir.

MJ: And do you know the location of the people you were having the conversations with?

ACC: No, sir. I know that the previous charge with the individual known as Nicole, I knew that was in New York. I don't recall where the others were, where they were at or if they had even mentioned that in the conversation.

MJ: But to be clear, these online people, they did state at some point that their age was below the age of 16?

ACC: Yes, sir.

MJ: Do you recall any of the ages that they provided you?

ACC: The ages that I recall, sir, are 15 and 13.

MJ: All right. Do counsel believe any further inquiry is required on this specification?

ATC: No, Your Honor.

MJ: Defense?

CDC: No, sir.

MJ: All right. Captain Alvey, we're now going to go to Specification 2 of Charge III.

Specification 2 of Charge III, you are again charged with the offense of conduct unbecoming an officer and gentleman in violation of Article 133 of the Uniform Code of Military Justice.

By pleading guilty to this offense, you are admitting that the following elements are true and accurately describe what you did as to the Specification. So the elements of 133 as alleged in the Specification are:

That at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 1 April 2022 and 4 May 2023, you did certain acts, to wit: send shirtless photos of yourself to persons you believed to be minors who had not attained the age 16, and;

That under the circumstances, your conduct was unbecoming an officer and gentleman.

The definitions for this offense are the same as those which I just read to you in Specification 1 of the Charge.

Would you like me to go over them again with you?

ACC: No, sir.

MJ: And do you still understand the elements and definitions as I've read them to you?

ACC: Yes, sir.

MJ: Do you have any questions about any of them now?

ACC: No, sir.

MJ: Do you understand that your plea of guilt to this specification admits that these elements accurately describe what

you did?

ACC: Yes, sir.

MJ: And do you believe and admit that the elements and the definitions taken together correctly describe what you did?

ACC: Yes, sir.

MJ: Tell me in your own words why you believe you're guilty of this offense.

ACC: Yes, sir. Because during the described time period, I did send shirtless pictures of myself to individuals from the previous specification who had stated in conversation that they were under the age of 16. This was done in the context of inappropriate communications that were being conducted via electronic means.

MJ: Captain Alvey, were your actions done in an official capacity or personal capacity?

ACC: Personal, sir.

MJ: All right. How did you go about sending these shirtless photos of yourself?

ACC: It would either be through some form of online messaging described in the other specification, Google chat or variety or text messaging.

MJ: So I have here Prosecution Exhibit 4, which I want to

make clear was the exhibit that was between you and Nicole in Specification 1. However, 4 has page -- on page 4 and 5 has photos of you in a shirtless state?

ACC: Yes, sir.

MJ: Are those similar to the photos that you're talking about in this specification?

ACC: Yes, sir.

MJ: When you sent these photos, did you believe the people you were sending them to were children that had not attained the age of 16?

ACC: Yes, sir.

MJ: And I understand you said these are the same people in Specification 1 of Charge III?

ACC: Yes, sir.

MJ: All right. I'm going to ask you again. How did you come to believe that these people were under the age of 16?

ACC: As previously stated, sir, at some point during those conversations, either at the beginning or possibly later on, they made it known that their age was under 16.

MJ: How many --

CDC: Can we have just a moment, sir?

MJ: Yes. How many times did you send -- do you recall

sending shirtless photographs of yourself to people?

ACC: I believe, sir, to be in the context of about a half a dozen communications with different individuals.

MJ: And, specifically, individuals you believed to be under 16?

ACC: Yes, sir.

MJ: Captain Alvey, you're a male Marine, correct?

ACC: Yes, sir.

MJ: Can you explain to me how sending a shirtless photograph of a male, as you are, is indecent or would qualify as conduct unbecoming an officer?

ACC: Well, sir, given that I knew that the age of those individuals was under the age of 16, any picture like that would be inappropriate. And it was done in the context of, you know, trying to display myself in an inappropriate manner to those individuals. And the intent behind that, sir, being to try to portray myself as a younger person in order to continue engaging in these types of chats.

MJ: Do you believe, given the context of these -- of the way these photos were sent, do you think that makes a difference?

ACC: Yes, sir, I do.

MJ: And that it's not like you're just sending a photo of

you at the beach, right?

ACC: Yes, sir.

MJ: All right. Explain that concept to me.

ACC: Sir, it makes a difference because of the context of the surrounding conversation. The conversation itself was lewd and inappropriate. The pictures were meant to further that conversation.

MJ: Okay. I understand that. Were you attempting to pose in like a sexually suggestive manner?

ACC: No. I would say that those pictures were not taken to be explicitly suggestive, but certainly by being shirtless, there is an element of that.

MJ: So if I take what you're telling me, they were primarily intended to facilitate you to continue the indecent communications?

ACC: Yes, sir.

MJ: And again, these are some of the same people that were discussed in Specification 1. Do -- you don't know their actual ages, correct?

ACC: No, sir. Just what they told me and what I believed at the time.

MJ: Okay. And you believed it at the time that you sent

the photographs?

ACC: Yes, sir.

MJ: Do you believe that your conduct here dishonored or disgraced you as a person?

ACC: Yes, sir.

MJ: Explain to me how so.

ACC: Yes, sir. It's to further those conversations with inappropriate pictures like that is personally disgraceful. It's insulting to my family, my wife, and is far below the standard of decent behavior that a man should do.

MJ: And do you believe that your conduct seriously compromised your standing as an officer?

ACC: Yes, sir, I do.

MJ: Explain that to me.

ACC: Sir, once again, it makes me hypocritical to think that I can try to enforce proper standards and ethical behavior from Marines when I'm engaging in the opposite.

MJ: Do you believe that sending shirtless images of yourself under this context, with people that you believe to be under 16, reflected indecency that is morally unfitting or unworthy of being an officer?

ACC: Yes, sir, I do.

MJ: And do you agree that your actions were a serious misbehavior, as opposed to just merely inappropriately or merely in poor taste?

ACC: Yes, sir.

MJ: Did anyone force you to send these photographs?

ACC: No, sir.

MJ: Excuse me, I said photographs, but they're digital images, correct?

ACC: Yes, sir.

MJ: And could you have avoided sending these images if you had wanted to?

ACC: Yes, sir.

MJ: And, Captain Alvey, I apologize. I'm going to return to Specification 1 for just a moment.

ACC: Yes, sir.

MJ: Did anyone force you to send those communications?

ACC: No, sir.

MJ: Could you have avoided sending those communications if you'd wanted to?

ACC: Yes, sir.

MJ: Do counsel believe any further inquiry is required?

ATC: No, Your Honor.

CDC: No, sir.

MJ: All right. Captain Alvey, we're now going to turn to Specification 3 of Charge III. Here, again, you are charged with an offense of conduct unbecoming an officer and gentleman in violation of Article 133 of the Uniform Code of Military Justice. By pleading guilty to this offense, you are admitting that the following elements are true and actually describe what you did:

One, that at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 13 July 2022 and 4 May 2023, you did certain acts to wit, and while married, converse with indecent language with persons you believed to be prostitutes; and

That under the circumstances, your conduct was unbecoming an officer and a gentleman.

The definitions for this offense are the same as those of which I just read to you as to Specification 1 and that they applied to Specification 2.

Would you like me to go over those with you again?

ACC: No, sir.

MJ: In addition to those definitions, I'm also going to advise you on the definition of indecent language as the Court views it towards this offense.

Indecent language is that which is grossly offensive to modesty, decency or propriety or shocks the moral sense because of its vulgar, filthy, or disgusting nature, or its tendency to incite lustful thoughts. Language is indecent if it tends to reasonably corrupt morals or incite libidinous thoughts.

The language must violate community standards. Community, as used in this instruction, meets the standards that are applicable to the military as a whole and not the accused's unit.

Do you understand the elements and definitions as I've read them to you?

ACC: Yes, sir.

MJ: Do you have any questions about any of them?

ACC: No, sir.

MJ: Do you understand that your plea of guilty admits these elements accurately describe what you did as alleged in Specification 3 of Charge III?

ACC: Yes, sir.

MJ: Do you believe and admit that the elements and definitions, taken together, correctly describe what you did as alleged in this specification and charge?

ACC: Yes, sir.

MJ: Okay. Tell me in your own words why you believe you're guilty of this offense.

ACC: Sir, during the time period described, I was married. I did engage in conversations with individuals who claimed to be prostitutes. These conversations were inappropriate in nature, explicit, and were conducted by online messaging and text messaging.

MJ: Where were you when you were having these communications?

ACC: Here in California, sir.

MJ: Were your actions done in an official capacity or personal capacity?

ACC: Personal, sir.

MJ: Okay, between on or about 13 July 2022, and on or about 4 May 2023, were you legally married?

ACC: Yes, sir.

MJ: Were you legally married during that entire time?

ACC: Yes, sir.

MJ: What state were you married in?

ACC: North Carolina, sir.

MJ: And do you recall when you became legally married?

ACC: August 26, 2017.

MJ: Do you understand that a prostitute -- understand the term "prostitute" to be a term used for a person that provides sexual acts for the purpose of receiving money and/or compensation?

ACC: Yes, sir.

MJ: Do you recall any specific individuals that you conversed with that you believe were prostitutes?

ACC: Sir, I've reviewed the spreadsheet of the messages and they are accurate based on my recollection.

MJ: So, Captain Alvey, unfortunately, I think you have me at a disadvantage. I don't have the spreadsheet.

So could you attempt to recall some of the individual names based on your review of the evidence or your recollection?

ACC: Sir, I don't have -- I don't recall any names that were used in these conversations. Merely just the phone numbers with which -- with whom I communicated.

MJ: Do you recall approximately how many times you communicated with these people?

ACC: Yes, sir. During that time period, I don't recall -- sorry, the specific number, but probably about two dozen.

MJ: How did you come to believe these individuals were prostitutes?

ACC: That's what they stated in online chat form.

MJ: Were you seeking out chat rooms where you believe prostitutes would be located?

ACC: Yes, sir.

MJ: How did you come to know where those chat rooms would be?

ACC: Merely through searching online.

MJ: Do you recall any specific statements that you made that you believe were indecent in nature?

ACC: Yes, sir. I mean, through all these conversations, they all were -- had a similar theme of me reaching out to the individual asking, you know, inquiring as to how much different actions would cost. Different sexual activities that the person would provide, and discussing with them my desire to perform those sexual acts with them.

MJ: Okay. So conversations about sexual activity in their own right aren't inherently indecent.

What do you believe it was about your statements that made them grossly offensive to modesty, decency, and propriety, as I explained to you before?

ACC: Sir, yes I mean -- the conversations in and of themselves may not be, but the fact that I was married at the

time and was explicitly engaging in conversation that would -- was designed to inquire about sexual activities for the exchange of money, that is inappropriate against common decency. And they're all obviously grossly indecent and disrespectful to my wife.

MJ: Do you believe that the things you were saying in these conversations tended to reasonably tend to corrupt morals and incite libidinous thoughts.

ACC: Yes, sir.

MJ: So as I understand it, the nature of these conversations wasn't so explicit in its own right, that it made it indecent. It's also coupled with the fact that you are a married officer that you believe does so?

ACC: Yes, sir.

MJ: But in the conversations, you did discuss sexual acts?

ACC: Yes, sir.

MJ: Were these public chat rooms?

ACC: The conversations, sir, would typically be through private messaging through that chat room or via text message.

MJ: But you met them originally in public chat rooms?

ACC: I did that or certain websites for escorts.

MJ: Okay. And then those websites link you up with a

potential individual?

ACC: Yes, sir.

MJ: Okay. Do you believe that your contact dishonored or disgraced you as a person?

ACC: Yes, sir.

MJ: How so?

ACC: Sir, I mean it's -- when I got married, I took vows to my wife, and I disgraced her and myself by engaging in these conversations. It was inappropriate, unbecoming and wrong.

MJ: Do you believe that your conduct seriously comprised your standing as an officer?

ACC: Yes, sir, I do.

MJ: How so?

ACC: Engaging in immoral actions like this completely compromises my standing and ability to hold anyone else to any level of ethical behavior.

MJ: Do you believe that using indecent language with the individuals you believed to be engaged in prostitution to reflect indecency that was morally unfitting and unworthy of your standing as an officer?

ACC: Yes, sir.

MJ: Do you agree that your actions were serious misbehavior

as opposed to just merely inappropriate or merely in poor taste?

ACC: Yes, sir.

MJ: How so? Explain that a little bit to me.

ACC: Once again, sir, the fact that I sought out these forms of communications while being married is obscene and wrong. It's not the values that I should be upholding, both personally and in a professional sense. And it's ultimately just completely disrespectful to my wife.

MJ: You intentionally sent these messages, correct?

ACC: Yes, sir.

MJ: And did anyone force or coerce you into sending these messages?

ACC: No, sir.

MJ: Could you have avoided sending these messages if you had wanted to?

ACC: Yes, sir.

MJ: Do you believe you had any legal justification or excuse?

ACC: No, sir.

MJ: Captain Alvey, to any of the charged offenses which you stand pleading guilty to, do you believe you had any legal justification or excuse for any of them?

ACC: No, sir.

MJ: Do counsel for either side believe any further inquiry is required?

ATC: No, Your Honor.

CDC: No, sir.

MJ: Counsel, what I'm going to suggest is that we get through the maximum punishment, inquiry. And then, as we come up to the plea agreement inquiry, we'll take a pause there. And we will take time to make sure the accused gets an opportunity to eat.

CDC: Yes, sir. That works for us.

MJ: Trial counsel, what do you calculate the maximum punishment authorized by law in this case based solely on the accused's guilty plea?

ATC: Sir, we may need to modify the plea agreement based on the -- what we have in the plea agreement right now is that the total authorized punishment would be -- should be is 30 years and 6 months, but we've calculated it -- that it should say 33 years, 6 months, dismissal, and total forfeitures, Your Honor.

MJ: Well, here, I'm inquiring what you believe the maximum punishment authorized by law based solely on the accused's guilty plea would be.

ATC: Solely on his guilty pleas, Your Honor, would be 17 years, 6 months, dismissal, and total forfeitures, sir.

MJ: And, defense counsel, do you agree?

CDC: Yes, sir.

MJ: Captain Alvey, the maximum punishment authorized by law in this case, based solely on your guilty plea, is a dismissal, 17 years and 6 months of confinement, total forfeiture of pay and allowance.

Do you understand that?

ACC: Yes, sir.

MJ: Now, aside from those punishments which may be adjudged by this Court, there are automatic consequences of your sentence that may affect your pay and allowance. If your sentence includes either a punitive discharge and confinement or confinement in excess of six months, the law requires that automatic forfeitures of pay and allowance during any period of confinement. That automatic forfeiture occurs whether the sentence is suspended or not, unless the convening authority takes action to stop the delay of the forfeitures.

Do you understand that?

ACC: Yes, sir.

MJ: And I'll note that you have a plea agreement that

touches on that issue, and we'll discuss that later, okay?

ACC: Yes, sir.

MJ: Do you have any questions about the maximum punishment authorized by law, as a result of your guilty plea?

ACC: No, sir.

MJ: Okay. I think this is a good time for us to take a break. Government, I'll invite you to use the lunch break to figure out any additional corrections, pen changes to the plea agreement that you need to make. And then we'll read those onto the record after, assuming the defense concurs.

ATC: Yes, Your Honor. Understood.

MJ: Okay. All right. So let's get back on the record at 1300. Court's in recess.

[The court-martial recessed at 1148, 27 October 2023.]

[The court-martial was called to order at 1259, 27 October 2023.]

MJ: This court-martial is called back to order. All parties previously present are again present.

During the recess, the parties reviewed the plea agreement in this case and made some final pen changes to that, which I will take up with the accused at the appropriate time. But I have Appellate Exhibit III here and I'm just reviewing them, and they appear to be correct in calculation form as to the

maximum punishment in the max punishment calculation table of Appellate Exhibit III.

So, Captain Alvey, where we left off, we were discussing the maximum punishment calculations in this case.

Did you have any questions about the maximum punishment authorized by law as a result of your guilty plea?

ACC: No, sir.

MJ: As stated before, the Court is aware there's a plea agreement in this case. I have a copy of it here with me at the judge's bench. It's Appellate Exhibit III, a 9-page exhibit.

Captain Alvey, we will now discuss your plea agreement.

Defense counsel, does the accused have a copy of the plea agreement in front of him?

CDC: Yes, sir.

MJ: Captain Alvey, I have Appellate Exhibit III, your plea agreement.

Did you sign this document?

ACC: Yes, sir.

MJ: And now if you look at this document, the one that I have here, on pages 3 and 4, there are numerous pen changes to the document reflecting the maximum punishment.

Did you sign that document as well?

ACC: Yes, sir.

MJ: And do -- have counsel for both sides initialed next to these changes?

TC: The government has, yes, sir.

CDC: Yes, sir.

MJ: And, Captain Alvey, based on the changes to this document by those pen changes, do you still wish to be bound by this plea agreement?

ACC: Yes, sir.

MJ: You've had an opportunity to consider the changes that were made and whether you still wanted to be bound; is that correct?

ACC: Yes, sir.

MJ: Did you read through the agreement entirely before you signed it?

ACC: Yes, sir.

MJ: Do you understand the contents of your plea agreement?

ACC: Yes, sir.

MJ: Did anyone force you in any way to enter into this plea agreement?

ACC: No, sir.

MJ: Does this agreement contain all the understandings or

agreements that you have in this case?

ACC: Yes, sir.

MJ: Has anyone made any promises to you that are not written into this agreement in an attempt to get you to plead guilty?

ACC: No, sir.

MJ: Counsel, is Appellate Exhibit III the full and complete agreement in this case and are you satisfied that there are no other agreements?

ATC: Yes, Your Honor.

CDC: Yes, sir.

MJ: All right. Captain Alvey, the law requires that I discuss the conditions of your agreement with you. Let's look at the terms of your agreement.

First, let's look at paragraph 4 of your plea agreement.

Do you understand that you may withdraw any of your pleas of guilty at any time before the sentence is announced? And if you have good cause or reason, the Court will allow you to do so?

ACC: Yes, sir.

MJ: Please look at paragraph 5. It lists the four ways in

which the convening authority could withdraw from the pretrial agreement.

Did you discuss these with your counsel?

ACC: Yes, sir.

MJ: Do you have any questions about it?

ACC: No, sir.

MJ: Now, please look at paragraph 6(b) and (c). Those paragraphs describe how the convening authority, after complying with procedures set forth in R.C.M. 1108, could vacate any portion of the sentence that was suspended in the event that you commit future misconduct.

Did you discuss these two provisions with your counsel?

ACC: Yes, sir.

MJ: And do you have any questions about them?

ACC: No, sir.

MJ: Now, let's look at paragraph 7.

Do you understand that if either side withdraws from the plea agreement, that your offer to plead guilty and your entry into this agreement can not be used against you in any way?

ACC: Yes, sir.

MJ: I'll note that Prosecution Exhibit 1, the stipulation of fact, has been admitted subject to my acceptance of the

accused's guilty plea. I'm also going to note that Prosecution's Exhibit 2, 3, and 4 are also admitted subject to the accused -- my acceptance of the accused's guilty plea.

Please look at paragraph 8. After addressing your pleas in the table contained in paragraph 8(a), paragraph 8(b) contains 11 specially negotiated provisions that you have agreed to.

Have you read each and every provision in paragraph 8(b) and discussed them with your counsel?

ACC: Yes, sir.

MJ: Do you understand each provision that you have agreed to in paragraph 8(b), subparagraphs 1 through 11?

ACC: Yes, sir.

MJ: Defense counsel, have you explained each and every provision in 8(b) and its subparagraphs to the accused, and are you confident that your client understands all of them?

CDC: We have, sir.

MJ: Captain Alvey, although I don't have any doubt that your defense counsel has explained everything to you and that you understand them, there are several provisions that I'd like to discuss with you at this point, okay?

ACC: Yes, sir.

MJ: First, your plea agreement states that you agree to waive, that is, give up trial by members, and to select trial by military judge alone.

Do you understand that?

ACC: Yes, sir.

MJ: Do you understand the difference between trial before members and trial before military judge alone, as Colonel Hatch explained it to you earlier in the court session?

ACC: Yes, sir.

MJ: Did you understand the difference between the various types of trials when you signed the plea agreement?

ACC: Yes, sir.

MJ: Did you understand that you were giving up trial with members when you signed the plea agreement?

ACC: Yes, sir.

MJ: Was that waiver a free and voluntary act on your part?

ACC: Yes, sir.

MJ: All right. Now, please look at subparagraphs 2 and 3 of 8(b). These paragraphs deal with your requests and the convening authority's agreement to defer and waive automatic forfeitures that would normally otherwise become effective, as a result of Article 58.

Have you fully discussed these two provisions with your defense counsel?

ACC: Yes, sir.

MJ: Do you understand that you must provide proof of the required allotment to the convening authority prior to the entry of judgment?

ACC: Yes, sir.

MJ: Do you further understand that you are required to notify the convening authority in writing in the event that the DOD fails to defer or waive the forfeitures?

ACC: Yes, sir.

MJ: All right. Subparagraph 2 of 8(b) states that the period of waiver may not exceed 6 months from the date of the entry of judgment. If you were to be confined for a period of time past that date, you would stop receiving pay and allowance at that point.

Do you understand that?

ACC: Yes, sir.

MJ: Please now look at subparagraph 4 of 8(b). This paragraph deals with your understanding of appellate leave and your agreement, that if the punitive discharge is adjudged, you will submit a written request to be placed on appellate leave

within 10 days of the date of the conclusion of the trial.

Do you fully understand this provision?

ACC: Yes, sir.

MJ: Do you have any questions about it?

ACC: No, sir.

MJ: Do you understand that if you are placed on appellate leave status, you will stop receiving pay and allowance, even if the convening authority has agreed to defer and waive automatic forfeitures?

ACC: Yes, sir.

MJ: Subparagraph 5 of 8(b). There, you agreed not to request in presentencing at government expense the presence of any witness located more than 50 miles from the location of this court-martial, which is Camp Pendleton, California.

Have you fully discussed this provision with your defense counsel and understand that you're giving up the right to seek the production of witnesses that you may have otherwise been able to have the government produce for this trial?

ACC: Yes, sir.

MJ: Defense counsel, do you believe this provision has interfered in any way with your ability to present an effective case in extenuation and mitigation for your client?

CDC: No, sir.

MJ: Okay. Subparagraph 6 of 8(b), there you and the government agree not to make certain evidentiary objections with regard to presentencing evidence and that both parties will provide a written list of witnesses at least 5 days prior to today.

Do you fully understand this provision and have you had the opportunity to discuss it with your defense counsel?

ACC: Yes, sir.

MJ: Do both sides believe that the parties have complied with the 5-day notice requirement for sentencing witnesses?

ATC: Yes, Your Honor.

CDC: Yes, sir.

MJ: Thank you. Captain Alvey, now, please look at subparagraph 8 of 8(b). There you agree that in order to show cause, you will waive a show-cause board of inquiry, that is, based on any act or omission reflected in the charges and specification on the charge sheet in this court-martial.

Do you understand that provision?

ACC: Yes, sir.

MJ: Okay. Do both parties believe that the term reflected in the Charge and Specification on the charge sheet in this

court-martial refers to all the charges and specifications on the charge sheet or just the charges for which is pleading guilty?

Government, is it your position that it's all charges and specifications?

ATC: Yes, Your Honor.

CDC: Yes, sir.

MJ: Same, defense? Thank you.

Defense counsel, have you fully explained the rights which your client would have had at a show-cause board of inquiry and also what the possible effects of this waiver may be?

DC: We spoke about it, sir. Yes, sir.

MJ: And, Captain Alvey, are you confident that you fully understand this provision and the rights that you would have had at a show-cause board of inquiry?

ACC: Yes, sir.

MJ: Turn to subparagraph 9. Defense counsel, what motions are you making pursuing -- not making, pursuant to subparagraph 9 of the plea agreement?

DC: I guess I don't have a comprehensive list. Would you just like some?

MJ: Yes, there's a couple I would like to discuss with you, too, to just identify that we've thought some of them through.

Yes, why don't we start with some of the ones that the defense -- as I understand, it's not a comprehensive list and not a complete list.

CDC: Yes, sir. Just based upon experience, I'm sure that we would have had to file several motions to compel both expert assistance and expert witnesses in the case, working with forensic computers, and then, certainly mental health professionals as well, both with the case on the trial and the merits.

And as far as a potential sentencing case may be concerned, there would possibly be suppression motions on physical evidence, suppression of a statement. I don't know how tied up we would get on other actions that occurred at NCIS, but there may be some additional issues that occurred at NCIS that would lead to a motion to suppress. We would have had motions on the nature of the charges, the maximum sentences of the charges we would have had motions.

MJ: By "maximum sentence," are you referring to possible unreasonable multiplication of charges?

CDC: Well, unreasonable multiplication of the charges and the 1 year versus 15 years on the conduct unbecoming charges. We would've had -- is that enough or do you want more?

MJ: I think that's sufficient. I just want to have an idea of what the nature of this waiver was grounded in decision.

Thank you.

CDC: Yes, sir.

MJ: So, Captain Alvey, the subparagraph of 8(b), specifically 9 of your plea agreement, states that you waive or give up the right to make any motion regarding all waivable motions. I advise you that certain motions are waived or given up if your defense counsel does not make the motion prior to entering the plea. Some motions, however, such as a motion to dismiss for lack of jurisdiction, for example, can never be given up.

Do you understand that this term of your plea agreement means that you give up the right to make any motion, which by law is given up when you plead guilty?

ACC: Yes, sir.

MJ: In particular, do you understand that this term of your agreement may preclude this court or any appellate court from having the opportunity to determine if you are entitled to any relief based on these motions?

ACC: Yes, sir.

MJ: When you elected to give up the right to litigate these

motions, did your defense counsel explain this term of the agreement and the consequences to you?

ACC: Yes, sir.

MJ: Did anyone force you to enter into the terms of this agreement?

ACC: No, sir.

MJ: Defense counsel, which side originated the waiver of motions provision?

CDC: There were a couple of back and forth, sir, but I think the first signed pretrial agreement was signed by us. So I would say it began with us, sir.

MJ: Okay, thank you.

CDC: Yes, sir.

MJ: All right. Defense, earlier I discussed the possibility of failure to state an offense, which is not automatically waived, but, however, it may be expressly waived by you.

Have you considered motions based on failure to state an offense, in that the specification of Charge I and II appear to deviate from the sample specification provided in the manual as they do not allege any victim, in the case of Charge I did not allege a "*mens rea*" element or specific intent element?

DC: Yes, sir. We've discussed it and thought about it.
Yes, sir.

MJ: Okay. And, defense, have you also considered the opportunity to compel a bill of particulars to further clarify this charge?

DC: Yes, sir.

MJ: Captain Alvey, is it your expressed desire to waive the motion related to failure to state an offense?

ACC: Yes, sir.

MJ: Mr. Stackhouse, we discussed unreasonable multiplication of charges. And then also, have you considered constitutionally protected speech or motions related to constitutionally protected speech?

CDC: Yes, sir.

MJ: Captain Alvey, do you understand that if these motions were made and granted by me, then the possible rulings could have been that all charges against you would be dismissed or that certain evidence could not be used as evidence against you in a court-martial?

ACC: Yes, sir.

MJ: Knowing what your defense counsel and I have told you, do you want to give up making these motions in order to get the

benefit of your plea agreement?

ACC: Yes, sir.

MJ: Do you have any questions about this provision of your plea agreement?

ACC: No, sir.

MJ: Captain Alvey, subparagraph 10 of your plea agreement states that you agree to waive the Article 32 preliminary hearing. However, I note that you waived the right to an Article 32 preliminary hearing on 1 August 2023, in advance of this agreement. And the agreement in this case and before your entry into the plea agreement on 21 September 2023.

When you agreed to subparagraph 10 of your plea agreement, did you understand that you had already waived your right to a plea agreement during the arraignment?

ACC: Yes, sir.

MJ: Do you have -- and I've reviewed in its entirety, the recording of the arraignment where you -- the military judge inquired about your 32 waiver.

Do you have any additional questions about your 32 waiver?

ACC: No, sir.

MJ: Would you like me to go into what your rights would

have been at an Article 32?

ACC: No, sir.

MJ: Defense counsel, do you believe your client has a full and complete understanding of his rights under Article 32?

CDC: I do, sir.

MJ: Captain Alvey, please now look at Paragraph 9 of the plea agreement, which contains the agreements by the convening authority. This provision of your plea agreement indicates that the convening authority has directed the trial counsel to move to withdraw the charges and their specifications to which you are pleading not guilty after I accept your plea.

In other words, if I accept your plea of guilty, the government will not prosecute the remaining charges provided that your plea of guilty remains in effect until the announcement of sentence, at which time I would grant the motion.

Do you understand that?

ACC: Yes, sir.

MJ: However, if for some reason your plea of guilty at any time becomes unacceptable, trial counsel would be free to proceed on all charges and specifications.

Do you understand that?

ACC: Yes, sir.

MJ: Captain Alvey, please now direct your attention to Paragraph 10 of the plea agreement. This provision contains the sentencing limitations, which are the limits placed on this court's sentencing authority, pursuant to the plea.

Do you have any questions about the sentence limitations placed on this court by Paragraph 10?

ACC: No, sir.

MJ: Pursuant to Paragraph 10(a), this court must sentence you to a dismissal for the offense to which you have pled guilty.

Do you understand that?

ACC: Yes, sir.

MJ: Do you understand that a dismissal will forever adversely stigmatize the character of your military service, and will limit your future employment and schooling opportunities?

ACC: Yes, sir.

MJ: Do you understand that a dismissal may adversely affect your future with regard to legal rights, economic opportunities and social acceptability?

ACC: Yes, sir.

MJ: Do you understand that by receiving a dismissal, you will lose substantially all benefits from the Department of Veterans Affairs and the military establishment, as well as other

benefits normally given by other government agencies?

ACC: Yes, sir.

MJ: Have you fully discussed the ramifications of a dismissal with your defense counsel and do you understand them?

ACC: Yes, sir.

MJ: Knowing all that I and your defense counsel have explained to you, is it still your expressed desire to plead guilty pursuant to this plea agreement that will require the court to adjudge a dismissal?

ACC: Yes, sir.

MJ: Okay. Please now look at Paragraph 10(a). This provision states that the minimum amount of confinement this court may adjudge is 6 months and the maximum is 9 months. The provision further directs that the court will adjudge segmented sentences in accordance with Table A.

Do you fully understand this provision?

ACC: Yes, sir.

MJ: Table A also states that all periods of confinement will run concurrently with each other.

Has your defense counsel fully explained this to you and do you understand what that means?

ACC: Yes, sir.

MJ: Paragraph 10 also states that forfeitures and fines will not be adjudged.

Do you understand that?

ACC: Yes, sir.

MJ: If I accept your plea agreement, the Court and the parties, to include you, will be bound by the terms of the agreement, to include imposing a sentence that comports with the limitations contained in this agreement.

Do you understand that?

ACC: Yes, sir.

MJ: Captain Alvey, do you fully understand all the sentencing limitations that I've discussed with you?

ACC: Yes, sir.

MJ: Do you have any questions about them at this time?

ACC: No, sir.

MJ: Do counsel for both sides agree with my interpretation of the sentencing limitations contained in the plea agreement?

ATC: Yes, Your Honor.

CDC: Yes, sir.

MJ: Please look at Paragraph 11. It contains five notification provisions indicating that your defense counsel has discussed with you potential consequences of your plea of guilty

and the resulting convictions.

Do you have any questions about them at this time?

ACC: No, sir.

MJ: Captain Alvey, have you had enough time to discuss this agreement with your defense counsel?

ACC: Yes, sir.

MJ: Are you satisfied with your defense counsel's advice concerning this plea agreement?

ACC: Yes, sir.

MJ: Did you enter into this agreement on your own free will?

ACC: Yes, sir.

MJ: Has anyone tried to force you to make or enter into this plea agreement?

ACC: No, sir.

MJ: Do you have any questions about your plea agreement?

ACC: No, sir.

MJ: Do you fully understand all the terms of the plea agreement and how they affect your case?

ACC: Yes, sir.

MJ: Are you pleading guilty not only because you hope to receive the relief set forth of the plea agreement, but because

you are convinced that you are, in fact, guilty?

ACC: Yes, sir.

MJ: Do counsel for both sides agree with the Court's interpretation of the plea agreement?

ADC: Yes, Your Honor.

CDC: Yes, sir.

MJ: Very well. The plea agreement is accepted.

Defense counsel, have you explained each and every notification provision to the accused regarding sex offender notification?

CDC: Yes, sir.

MJ: Captain Alvey, please look at subparagraph 1 of Paragraph 11. This discusses the possibility that you will be required to register as a sex offender in any state which you may be domiciled.

Defense counsel, did you advise the accused prior to trial and prior to entering into the plea agreement of sex offender reporting and registration requirements resulting from a finding of guilty, specifically to Charge I and sole Specification, as well as the operating and per DOD and SECNAV instructions.

DC: Yes, sir.

MJ: Captain Alvey, do you understand the potential effects of being placed on a sex offender registration and sex offender registration laws in this case?

ACC: Yes, sir.

MJ: Do you understand that regardless of what state law for sex offender registration may be, in whichever state you are domiciled in, I will be annotating on the statement of trial results that your conviction qualifies for DOD sex offender notification, pursuant to DOD Instruction 1325.07?

ACC: Yes, sir.

MJ: Considering the possible effects of these registration requirements and notification laws, do you still want to plead guilty?

ACC: Yes, sir.

MJ: Captain Alvey, certain convictions may carry collateral consequences to non-citizen immigrants of the United States. Although you're an officer in the Marine Corps, I still want to ask, are you a U.S. citizen?

ACC: Yes, sir.

MJ: Okay. And what state were you born in?

ACC: Arizona.

MJ: Trial counsel, has the government fully completed its

discovery obligations to the defense?

ATC: Yes, Your Honor.

MJ: Defense counsel, have you had enough time and opportunity to discuss this case with Captain Alvey?

CDC: Yes, sir.

MJ: Captain Alvey, have you had enough time and opportunity to discuss this case with your defense counsel?

ACC: Yes, sir.

MJ: Have you, in fact, consulted fully with your defense counsel and received the full benefit of their advice?

ACC: Yes, sir.

MJ: Are you satisfied that your defense counsel's advice to you is in your best interest?

ACC: Yes, sir.

MJ: And are you satisfied with your defense counsel?

ACC: Yes, sir.

MJ: Are you pleading guilty voluntarily and of your own free will?

ACC: Yes, sir.

MJ: Has anyone made any threat or tried in any way to force you to plead guilty?

ACC: No, sir.

MJ: Do you have any questions as to the meaning and effect of a plea of guilty?

ACC: No, sir.

MJ: Do you fully understand the meaning and effect of your plea of guilty at this time?

ACC: Yes, sir.

MJ: Captain Alvey, do you understand that even though you believe you are guilty, you have the legal right to plead not guilty and to place upon the government the burden of proving your guilt beyond a reasonable doubt?

ACC: Yes, sir.

MJ: Captain Alvey, I find that your plea of guilt is made voluntarily and with the full knowledge of its meaning and effect. I find that you have knowingly, intelligently, and consciously waived your right against self-incrimination to a trial of facts by a court-martial and to confront the witnesses against you. The Court further finds that your pleas are made with a factual basis.

Accordingly, your plea of guilty is provident and accepted. However, I advise you that you may request to withdraw your guilty plea at any time before the sentence is announced. And if you have good reason for your request, I will grant it.

Trial counsel, what's the government's position regarding the offense to which the accused has pled not guilty?

TC: Your Honor, with regards to the offenses that the accused has pled not guilty, the government intends to withdraw and dismiss those without prejudice to ripen into prejudice upon the acceptance of the accused's guilty pleas and the awarding of a sentence.

MJ: And do you also -- so, government, I'm interpreting that to include that those charges will ripen into prejudice upon completion of appellate review in which the findings and sentence are affirmed?

TC: Yes. They will be dismissed without prejudice upon that, sir.

MJ: Okay. The government's motion is granted. The offenses to which the accused has pled not guilty are hereby withdrawn.

TC: Do you want me come up and line the charge sheet, sir?

MJ: No, not necessary. Thank you.

TC: All right.

MJ: Accused and counsel, please rise.

[The accused and defense counsel did as directed.]

MJ: Captain Alvey, United States Marine Corps, this

court-martial finds you:

**To the Charges and Specifications
now pending before this Court,
and in accordance with your plea agreement
and pleas of guilt:**

Guilty.

You may be seated.

[The accused and defense counsel did as directed.]

MJ: Captain Alvey, we now enter the sentencing phase of the trial where you have the right to present matters in extenuation and mitigation, that is, matters about the offense or yourself, which you want me to consider in deciding your sentence. In addition to testimony of witnesses and the offering of documentary evidence, you may testify under oath as to these matters or you may remain silent; in which case, I will not draw any adverse inference from your silence.

On the other hand, if you desire, you may make an unsworn statement. Because the statement is unsworn, you cannot be cross-examined on it. However, the government may offer evidence to rebut any statement of fact contained in the unsworn statement. You may make an unsworn statement orally or in writing, personally or through counsel, or you may use any combination of these methods. If you decide to remain silent, that cannot be held against you in any way.

Do you understand these rights?

ACC: Yes, sir.

MJ: Counsel, is the personal data on the front page of the charge sheet correct?

ATC: Yes, Your Honor.

MJ: Defense counsel, has the accused been punished in any way that would constitute illegal pretrial punishment under Article 13?

Defense counsel?

DC: Well, I mean, we waived that. So we might talk about some issues, but nothing that we're raising with Court under Article 13 anyway.

MJ: Okay. Captain Alvey, is that correct?

ACC: Yes, sir.

MJ: Counsel, based on the information on the charge sheet, the accused is to be credited with 170 days of pretrial confinement credit; is that the correct amount?

ATC: Your Honor, my understanding is 169 days. Today does not count sir. Excuse me. So, yes, sir. That's correct.

MJ: So government concurs with 170 days?

ATC: Yes, sir.

MJ: Not counting today?

ATC: Yes, Your Honor.

MJ: Trial counsel, does the prosecution request that the matters addressed during the providence inquiry be considered in sentencing?

ATC: Yes, Your Honor.

MJ: Defense counsel, do you have any objection?

CDC: No, sir.

MJ: The Court will note the personal data on the charge sheet and consider the matters addressed during the providency inquiry, including the stipulation of fact, Prosecution Exhibit 1.

Defense, do you have any objection, because we did this a little non-standard to the Court, considering Prosecution's Exhibit 2, 3, and 4 for sentencing purposes?

CDC: No, sir.

MJ: Any crime victim who is present at this presentencing proceedings has the right to be reasonably heard, including the right to make a sworn statement, unsworn statement, or both. A crime victim may exercise this right following the government's opportunity to present evidence.

Trial counsel, do you have evidence to present at this time?

ATC: Your Honor, if you would consider Prosecution Exhibits 2, 3, and 4, previously admitted, then the government has nothing further, sir. And 1, of course.

MJ: Okay, so the government has Prosecution Exhibit 1, 2, 3, and 4 here at the bench. They have been admitted. The words "for identification" have been stricken and they've been accepted pursuant to my acceptance of the accused's guilty plea.

Do you have any witnesses that you're calling?

ATC: No, Your Honor.

MJ: Government rests?

ATC: Yes, sir.

MJ: Defense counsel, do you have any evidence to present at this time?

CDC: Yes, sir, we do. May we take a short recess just so we can speak with Captain Alvey?

MJ: Yes, how long do you need?

CDC: Probably no more than ten, sir.

MJ: Okay. I think this is a good time to take a 10-minute recess. So we will reconvene at 1342.

CDC: Thank you, sir.

MJ: Court is in recess.

[The court-martial recessed at 1332, 27 October 2023.]

[The court-martial was called to order at 1346, 27 October 2023.]

MJ: This court-martial is called back to order. All parties previously present are again present. The court notes that during the recess, I realized I omitted the portion where publicly -- inquire as to whether there is a crime victim that wants to be heard.

So at this time, is there a crime victim that wants to be heard on the record?

ATC: No, Your Honor.

MJ: No positive response from the courtroom, and the government has certified that there is not.

Defense counsel, do you have any evidence to present at this time?

CDC: Yes, sir. We offer Defense Exhibit A for identification. It's a 3-page document with three character statements. Ask for it to be admitted into evidence, words "for identification" stricken, sir.

MJ: Government, any objection?

ATC: No, Your Honor.

MJ: Okay. Barring government objection, Defense Exhibit A for identification is admitted; the words "for identification" are stricken.

Defense counsel, anything else?

CDC: Yes, sir. Captain Alvey is going to make an unsworn statement and he's going to do that in the manner of an unsworn statement through counsel, followed by making an unsworn statement himself, sir.

MJ: Okay.

UNSWORN STATEMENT THROUGH COUNSEL

CDC: And the unsworn statement through counsel, Captain Alvey would like you to know that upon these offenses being discovered, that he was taken to Balboa Naval Hospital and was seen by mental health professionals there for approximately a week where he received daily assessments and therapy and medications for, among other things, depression.

And not long after that, Captain Alvey was placed into pretrial confinement -- or approximately a week later, he was placed into pretrial confinement. And shortly after he was placed into pretrial confinement, he had the opportunity to visit with Dr. Carol, who's a psychologist that visits the confinement facility about once a week. And he was prescribed medications at that time and given a referral to a nurse practitioner, Lieutenant Wilson, who's a mental health provider, to continue, sort of, his course of therapy, and same with the prescriptions.

Maybe a week after that, or within a few days after that, perhaps, put the SJA on notice that the mental health provider still had not arrived and that we were going to be watching for that, and also the medications. About a month after that, a letter was sent to the SJA complaining of the same because he still hadn't received any visits by the mental health provider other than Dr. Carol, who's the psychologist -- or psychiatrist, excuse me.

Captain Alvey would also like you to know that the team contacted the Naval Hospital to find out when the mental health provider would be there to see him and found out that she was deploying and that they would have to figure out someone else to send to him. From really about that point forward, over the next few months, he saw Dr. Carol approximately once a month to do adjustments to his medication, really just based on self-reporting on how he was -- how he was adjusting to the different medications.

They did finally have a mental health professional come to visit with Captain Alvey probably about 6 weeks ago. And during those visits, it was not goal-oriented therapy. It was really, you know, 1-hour visits, but not working toward an end state, not working toward a goal of any kind. And those visits

stopped about 3 weeks ago, because that mental health professional was also either PCS'ing or deploying.

And the reason why he would like you to know these things is because during his previous duty station at Quantico, he was diagnosed with a major depressive disorder and issues with compulsion. And for a number of months up until, really, PCS time, he was undergoing a regular course of therapy and had been prescribed Trintellix for the treatment that he was going through, and he felt like he was progressing. When he received PCS orders, it was, really, during the time of COVID, and, you know, starting a new duty station during the COVID timeframe, a couple minor attempts, but nothing in earnest, did he make to began or continue his course of treatment and he just poured everything into work.

And he would like you to know that he believes that the work that he had seen or the progression that he had seen before his PCS move was really lost at that point. And he would like you to know that while he's currently prescribed medication now for depression, he's taking Celexa in the mornings and in the evenings, he takes Trazadone, again for the depression, also to assist with sleep, that he truly wants to get back on track with a long-term continuing course of treatment. And he is committed

to that for both himself and for his family, sir.

And then, Captain Alvey would like to provide a statement to the Court as well, sir.

MJ: Okay.

ACCUSED'S UNSWORN STATEMENT

ACC: Good afternoon, sir. Before I begin, I'd first like to say thank you to you and to everyone else involved in these proceedings today. It's been a long process to get to this point. And I appreciate you taking your time to be here, sir, as well as the efforts of the trial counsel, my defense counsel, the command, and everyone else who is not present.

I'm truly sorry for my actions. My behavior was immoral, disgraceful, and absolutely not what this country and organization expects from one of its military officers. I've had many months to reflect on my life, my choices, and the events that have led me into this situation. And I truly regret how far I let myself fall.

First, I would like to apologize to the Marine Corps. From the time I was young, I knew that the military service was how I wanted to spend my life. I chose the Marine Corps because I wanted to be a part of the best that our country had to offer. And achieving that goal was one of the proudest moments in my

life. I've served with many wonderful people over the last 11 years and accomplished a lot as a part of some truly great teams. To now be exiting the Marine Corps in this manner is a disappointment that will haunt me for the rest of my life. I'm sorry for not upholding the standards and for letting everyone down.

Next, I would like to apologize to my parents who are not here today, but I know they're -- I know they have me in their thoughts right now. They were my inspiration for wanting to serve, and my poor behavior has gone against the values that they tried to instill me with. Despite the difficulties of our relationship, their unwavering support throughout this process means more to me than I can express. I hope one day to be able to repay them for their kindness and to make them proud of me again.

Finally, and most significantly, I would like to apologize to my family. As much as I have suffered throughout this process, it is nothing compared to the hurt that I've caused my wife and children. When we were on the verge of starting a new and happy life, I selfishly made my wife a single mother. I betrayed her trust in the vows that I made to her, and I put her in a terrible position that she did not deserve. And yet, she

has shown more resilience than anyone could imagine and has shown me more support than I deserve.

She is my rock and she deserves so much more than I have given her. Every day I love her more, and I hope to be able spend the rest of my life making everything up to her. The last thing that I remember before leaving for work on May 3rd was giving my son a hug. I remember not wanting to let go, and when I still close my eyes, I can feel his bony little arms around me. My kids have no idea where I've gone. I have been missing birthdays, or when I'm going to come home. All that I can tell them is soon and remind them as much as possible how much I love them and miss them.

My youngest daughter, Alyssa, has grown so much while I've been gone. Sometimes I worry that I won't even recognize her. She runs and climbs now, she plays and laughs, and has even started to say her first words. My children are too young to understand the hurt and damage that I have caused them. But like my wife, I hope to spend the rest of my life making it up to them. I apologize for the length of my statement, but as I said, I've had a lot of time to think and reflect. I thought often about the words of Moses as he addressed the Israelites before Canon, that the Lord might humble you and that he might test you

to do you good in the end.

Before this, I had lofty goals and ambitions which are now gone. I know that I will have to walk a more difficult path in life now because of my actions, but my goals have been refined. All I seek now is to be a better son to my parents, a better father to my children, a better husband to my wife, and a better man for everyone else. I ask for your forgiveness.

Thank you for your time, sir.

MJ: Thank you, Captain Alvey.

CDC: With that, the defense rests, sir.

MJ: Okay. Just lend me one moment here.

Captain Alvey, based on some of your sentencing statements presented to the Court through your counsel, I'm going to reopen the plea agreement inquiry, okay? So we're going to go back and discuss a couple of things. It's important to note that what you were just talking to me, when you were just giving your unsworn statement, that was unsworn. However, that portion of the trial is concluded. You're now back under oath.

Do you understand that?

ACC: Yes, sir.

MJ: All right. First thing I want to address is you talked about being diagnosed with depression; is that correct?

ACC: Yes, sir.

MJ: Do you think anything about your diagnosis of depression has hindered your ability to prepare a defense in this case?

ACC: No, sir.

MJ: Defense counsel, do you believe anything about that diagnosis has hindered his ability to understand the nature of the charges against him or prepare a defense?

CDC: No, sir. And I've consulted and we've discussed R.C.M. 706 as well.

MJ: Okay. And have you done the same regarding any of the medical prescriptions that you discussed?

CDC: Yes, sir.

MJ: And based on your consultation and your discussions with your client, do you believe there's any grounds for 706 issues or lack of mental responsibility?

CDC: I don't, sir.

MJ: Okay. Thank you.

Captain Alvey, next, I want to talk about you indicated through counsel that the -- as the Court interpreted, essentially, that mental care and treatment has been slow to come to and difficult to obtain while you've been confined. I'd like

to talk to you now about your waiver of Article 13 that you made earlier, okay?

ACC: Yes, sir.

MJ: Your plea agreement indicates that you agree to give up or waive your right to make any motion about whether you have suffered from illegal pretrial punishment.

Now, it doesn't state it expressly. It states all waive-able motions. However, Article 13 is a waivable motion.

Do you understand that?

ACC: Yes, sir.

MJ: Article 13 of the Uniform Code of Military Justice essentially prohibits anyone from imposing pretrial punishment upon you, except for the minimum amount of restraint necessary to ensure your presence for trial. In addition, your chain of command may not publicly humiliate you or degrade you in any form of punishment.

Do you understand what I've said?

ACC: Yes, sir.

MJ: What's the nature of the pretrial restraint that you've undergone in this case?

ACC: Pretrial confinement, sir.

MJ: Okay. And that's here at Camp Pendleton?

ACC: Yes, sir.

MJ: And that's been at the brig?

ACC: Yes, sir.

MJ: What is it about the nature of this pretrial confinement that you believe could amount to illegal confinement?

CDC: Sir, can I clarify?

Did you say what could amount?

MJ: Yes. Or what did? Is it your position that it did amount to illegal pretrial punishment?

CDC: I mean, if you're asking if I would have filed a motion on it at some point, but for the pretrial agreement, we would have, yes.

MJ: Okay. And so, what's the defense's position about what the nature of the confinement was in combination with the provision of medical care that you believe was improper?

CDC: Well, I think it was inadequate. I mean, this is always the struggle back and forth on Article 13, right? I mean, do I think that anybody intended to punish him for anything, I don't. You know, I think it's one of these issues where the brig can't force mental -- I mean, can't force the mental health professionals to come into the brig and serve as somebody that's in pretrial or post-trial.

And so, doctors do what they do, which is put it in the referrals and mental health does what they do, which is perhaps serve those that they triaged, that, you know, that they can.

MJ: Okay.

CDC: So whether it's -- in other words, I think, lack of personnel, lack of time. Perhaps, like, everyone else, I think the reason it becomes a little bit different is when you are in confinement, you can't control any of that. No different than -- I don't mean to say this to denigrate what we're talking about here, but you don't get to pick your food either.

MJ: Right.

CDC: So I think it's important to bring to the Court. We've talked about the application of this to Article 13. But, you know, we've waived that motion. We do want the Court to consider. I think that the Court can consider it when fashioning an appropriate sentence. But we're not bringing it under Article 13.

MJ: Okay. Defense counsel, I understand your position on that.

Captain Alvey, do you understand that by the terms of your plea agreement and expressly waiving Article 13, you are giving up the right for this court or any court considering this

issue on appeal to determine if you actually suffered from illegal pretrial punishment, to include a claim of additional credit against your sentence?

ACC: Yes, sir.

MJ: Do you understand that by not litigating this issue, you will never know what credit for illegal pretrial punishment, if any, that you would be entitled to and that you will receive no credit against your sentence for illegal pretrial punishment other than the consideration that your defense counsel has articulated?

ACC: Yes, sir.

MJ: When you elected to give up the right to litigate the possibility of illegal pretrial punishment, did your defense counsel explain the issue and consequences to you?

ACC: Yes, sir.

MJ: Did anyone force you to enter into this term of your agreement?

ACC: No, sir.

MJ: Knowing what I have now told you and what your defense counsel has told you, do you still desire to give up the right to litigate the issue of illegal pretrial punishment as long as your plea agreement continues to exist?

ACC: Yes, sir.

MJ: Do you have any questions about the waiver of Article 13?

ACC: No, sir.

MJ: The Court finds that you have voluntarily, knowingly, and intelligently waived your right to litigate the matter of Article 13. As such, the issue will not be addressed by the Court.

However, Mr. Stackhouse, the Court will obviously consider the matters brought to the Court's attention through the accused's unsworn statement for purposes of extenuation and mitigation.

And, Mr. Stackhouse, I believe before we did that you said the defense rested?

CDC: I did, sir.

MJ: Okay. Thank you.

Trial counsel, do you have any rebuttal evidence to offer?

ATC: No, Your Honor.

MJ: Are the parties prepared to begin argument?

ATC: Yes, Your Honor.

CDC: Yes, sir.

MJ: All right. Trial counsel, you may present argument.

ATC: Thank you, Your Honor.

Your Honor, the government respectfully requests that for Charge I and its sole Specification, Captain Alvey be adjudged a dismissal and confinement for 9 months; for Specifications, 1, 2, and 3 of Charge III, a dismissal; and for Specifications 1 and 2, confinement for 9 months; and for Specification 3, confinement for 6 months.

This sentence is not only fair and just, in light of the charges that Captain Alvey has pled to, those being:

That he attempted to sexually abuse a minor who had not attained 16 years of age;

That he discussed his sexual desires with other persons he believed to be minors, which was unbecoming an officer and a gentleman;

That he sent shirtless photographs of himself to persons he believed to be minors, which was unbecoming an officer and a gentleman; and

That he communicated indecent language to prostitutes, which was unbecoming an officer and a gentleman.

This sentence of a dismissal and 9 months' confinement, in total, would not only be fair and just in light of these

particular charges, but it is exceptionally reasonable in light of the facts and circumstances of this case.

Your Honor, during the providency inquiry, you asked Captain Alvey about whether he knew or believed that the person portraying themselves as Nicole was a 13-year-old girl. He told you that, as stated in the stipulation of fact, her screen name and the statement associated with that screen name on Chat Avenue indicated that she was a 13-year-old girl from New York. Specifically, it says, "13(F), HMU if you from NY" -- "Hit me up if you're from New York."

He told you that he talked about sex with Nicole, but not about some of the more specific things that he said, which are particularly aggravating. In Prosecution Exhibit 4, during those conversations that are depicted at 9:40 a.m. on April 5th, Nicole said, "I won't get 'preggo' right?"

Captain Alvey, "No, only if I finish inside you and you aren't on BC, but even then you might not."

Nicole, "Oh, Okay. I'm not on BC."

Captain Alvey, "Okay, we will have to try and pull out and cum somewhere else. LOL, up to you. I like to cum inside. Depends where I want to a mess on you."

Later at 4:18 pm he says "LOL, good. That makes me cum

so hard."

And then, finally, at 9:49 p.m. he says, "I can cover your mouth or put your face in the pillow while we do it. You will see how much I like it by how much I cum, LOL. I will need to keep it down so your aunt doesn't hear me doing that, LOL."

In Prosecution Exhibit 3, over the phone, Captain Alvey asked, "Would you want to try getting on top while in the car, too?"

Nicole responded, "I just don't know what I do on top."

Captain Alvey then said, "Well, I mean, you kind of, you know, like grind and bounce on top of it."

Two minutes later, he asks her, "Are you going to want to use your mouth, too." She asked if it was big and he said, "Yes, it's a good size, I guess. Yes, I would love for you to do that too."

Your Honor, trial counsel brings up these particular statements as aggravating because it shows not just that he communicated sexually with someone he believed to be a minor, it shows from the context of her statements that she really was portraying herself to be a 13 year-old-girl and that he believed that. It shows the explicit communications that he used when he talked to her.

A captain of Marines said that to someone he believed to be a 13-year-old girl. And then, he put on his cammies and went to work the next day. Which brings us to Charge III, Captain Alvey's conduct unbecoming an officer and a gentleman. I would respectfully direct Your Honor's attention again to Prosecution Exhibit 3, where you can see the photographs he sent of himself to persons he believed to be minors -- excuse me, Prosecution Exhibit 4, Your Honor.

Considering this in light of the sentencing factors in R.C.M. 1002, I want to focus on two particular factors, which are specific deterrence and the seriousness of the offense.

MJ: Trial counsel, Prosecution Exhibit 4, it's the Court's recollection that those are images he sent to Nicole and then representative of images he may have sent to other individuals, correct?

ATC: Yes, Your Honor, that's correct.

MJ: Sorry, you may proceed.

ATC: Thank you, Your Honor.

Your Honor, at the end of the day, one of the sentencing factors is specific deterrence and a dismissal from the Marine Corps as a just punishment to accomplish that end. A dismissal and confinement for 9 months are sufficient and just to

specifically deter Captain Alvey from committing the same misconduct again. He was communicating with persons he believed to be minors for quite a while, based on both the date ranges provided in a stipulation of fact and during the providency inquiry today.

The important thing, though, is that the only reason he stopped is because he got caught. A captain of Marines got caught in the act and fortunately NCIS was notified of this within weeks of it happening and he was arrested within 20 days -- 22 days of the date that he was talking to Nicole, or the person he believed to be Nicole. If he hadn't gotten caught so fast, there is no reason that this wouldn't still be happening. And that's why in the interests of specific deterrence, to keep this kind of thing from happening, 9 months is a perfectly reasonable punishment.

Now, the seriousness of the offense, Your Honor. Of all of these offenses, even the ones relating to conduct unbecoming, involve Captain Alvey's indecent communications for three of these specifications. They involve Captain Alvey's communications to minors or persons he believed to be minors, the most vulnerable people in our society who are particularly vulnerable to commit indecent communications on the internet.

Indecent communications to anyone believed to be a minor is so serious that a dismissal and 9 months are warranted and just in this case. I want to briefly address a couple of defense counsel's points that I expect to come up.

First, is that Captain Alvey has a family. Well, that's something that Captain Alvey should have thought about before he made these indecent communications. This PTA specifically considers that, and is exceptionally reasonable because it does not adjudge any forfeitures in consideration of his family, which is all the more reason that the dismissal and the full 9 months' confinement should be adjudged in this case.

The fact that these were not real kids that he was talking to does not make a sentence of 9 months any less just. Captain Alvey thought that they were kids and that's what he got satisfaction out of. And that is the bottom line.

Lastly, Your Honor, Captain Alvey talked about how remorseful he is. While that remorse, as he is standing here in front of you today, most likely asking for 6 months instead of 9 months, is valuable. And the remaining time that he would spend in the brig if he only had 6 months, he would be out next week. The remaining time that he spent in the brig after actually experiencing the weight of justice in this courtroom today would

be more valuable, should he go on to spend another 3 months, which with good credit would truly only be 6 to 7 weeks in the brig.

For these reasons, Your Honor, the government respectfully requests that for Charge I and its sole Specification, Captain Alvey be adjudged a dismissal and confinement for 9 months, for Specifications 1, 2, and 3 of Charge III, a dismissal. And for Specifications 1 and 2, confinement for 9 months. For Specification 3, confinement for 6 months, all to run concurrently for a total confinement of 9 months.

Thank you, Your Honor.

MJ: Thank you, trial counsel. I'll note that why I don't believe it's improper, the Court's not going to sentence based on potential computations of good time earned or timed credit at the brig. The Court will adjudge a sentence as it sees appropriate for the sentence.

ATC: Understood, Your Honor.

MJ: The Court will also not consider the possibility of any future potential misconduct that could have occurred had the accused not been in confinement. The Court will adjudge a sentence based on the confinement for which the accused has pled

guilty and those findings have been accepted. However, the Court takes the government's note about the nature of the imposition of restraint.

Defense counsel, do you have argument you'd like to present at this time?

CDC: Yes, sir.

Sir, I think what, you know, what this argument is really going to address is, really, the difference between, where the government comes in and asks for 9 months, really, at the top end of the pretrial agreement where the Court has the discretion or the lower end of the pretrial agreement, which as you might imagine, is where we would be arguing from. And while at the end, I heard the trial counsel try to give the Court a reason to move toward 9 months instead of 6 -- I guess what I would tell you is I submit to the court that that's not a compelling reason to look at that delta.

When I believe the evidence that you've had the opportunity or will have the opportunity to read in the form of the statements from his family and what you heard from Captain Alvey today, I believe, would hopefully persuade the Court to move toward the lower end of the pretrial agreement. So why is that?

Well, you have a Marine officer before you that has demonstrated acceptance for his conduct. There is no insinuation by the government that he's tried to mitigate what he did. In fact, as we were moving through the pretrial agreement phase or the providency phase, he felt that it was important that he be able to be direct with the Court and look at those pseudonyms that he was communicating with so he could make sure that the Court understood exactly what he was talking about and his belief in who he was talking to.

The acceptance of responsibility in a case like this, the contrition that he showed the Court, and both his pleas and his allocution in his unsworn statement as well, I think, demonstrates someone who really understands what he did -- the impact of what he did, and how that's going to affect him in the future. And why that becomes important when the government talks about, you know, continuing to send a message to him on the issue of specific deterrence, we would hope that it's not lost on the court that he gets it.

And I would also ask the Court to consider, again, the emotion that I think was apparent in his apologies to both everyone involved in the case and to his wife and his family and the incentives that he has to stay on a straight and narrow path

now for his family. You take those things into consideration and then think about the great divide between in-person and remote type offenses, and between contact and non-contact type offenses, which these are all on the lower end of the spectrum. And consider the general understanding of the anonymity that's afforded to someone on the internet. And really, the issues that he was dealing with. And those issues of being in a depressive state and having a history of that.

And as we talk through the considerations of that, when you reopen the providency to inquire on the mental health aspect of it, and does he know the difference between right and wrong? Sure. If you -- when you have the opportunity to read through the statements you have before you, he's an exceptionally smart guy. So, you know, he was -- and so, he can assist in his own defense. He was in a -- not a great place for him at the time. And it was something that he had experienced before.

And in Quantico, when he was stationed there, and he talked to you about beginning that course of treatment and when the PCS move comes, and COVID is in effect and starting work at a new command, the Court might imagine how hard it would be to roll and report for duty and say, Well, hey, look, I also have these other issues that I'm dealing with. And should command's be

receptive that? Of course. And should Marines believe, especially officers believe, that their commanders are going to be receptive to that? Of course. But it's still a hard thing.

But what you have now is someone who's had, you know, nearly 6 months of time to reflect and he talked to you about that reflection time. He's talked to you about his desire to begin a robust course of treatment. That he's had that desire from the time that he was in Balboa for a week before going into pretrial confinement, where he was able to get on medications, he was able to get assessments. He was able to participate in therapy, and then that was not available to him since he's been in pretrial confinement.

And he has the desire to work on himself. He's taken advantage of the opportunities that have been given to him through visits with Dr. Carol and being prescribed medication for his depression. The few times that he's had the opportunity to receive therapy, he's taken -- even though, as described, it wasn't goal oriented therapy, where you have a robust, repetitive, and regular course of treatment, where you're trying to move through the issues that you're dealing with. And that's what he's committed to. And outside of confinement, that's available to him.

As the Court knows, with a sentence that's going to be imposed today, there's at least an automatic appeal process that will take place that will take several months, if not up to a year. He'll still be eligible for TRICARE benefits so he can receive that care out on the economy instead of dealing with the limited availability on base. And again, that's not the command's fault. You know, what happens in the brig as far as the course of treatment is not the command's fault. But we can keep him in the brig for another 6 -- or another 3 months, sort of keep the status quo, for lack of a better term.

He's not going to get any more treatment. He'll continue to be medicated, but not assessed, and receive goal oriented therapy to be able to work on those things that are going to continue to assist him in being a productive member of society. So he's got that desire; he's got that focus. And that's why in part we would say that sentencing him on the lower end of the pretrial agreement really accomplishes those factors to be considered in approving a sentence.

Like under the federal rules under Title 18 and what gets presented to members in a sentencing case, that the Court should impose a sentence sufficient but not greater than necessary to comply with the purposes.

And again, you come back and say, Well, okay, you know, he was a Marine officer with 11 years and he was preparing to transition. As you read through the statements, you'll see he was preparing to transition, he was gearing up for interviews at this time. There were going to be interviews for a DOD intelligence position. You know, those kind of things were happening for him. And so, the Court might say, Okay, well, what now? I think that that's an important consideration for the Court.

But when you look at, really -- a Marine that comes from a family of service, you'll see that his father's work for the Department of Defense for coming on 43 years, I think. His mother is a retired brigadier general who now also works for DoD intelligence. Where he was going to go -- I mean, these are, again, read through. He turned down an appointment to West Point. He had an option between an ROTC scholarship and an NROTC scholarship, and he chose to join the Marine Corps through NROTC and serving at a military university at West Point. And did well, number two in his class.

I mean, this is indicative of, again, someone who is and was, I should say, really in the family fold of a public servant through a family of service. And as he's talked to you,

now you can see where he's next going to be serving. You know, now he's going to be a servant to his family. He told you what was important to him, is to be a better son, to be a better father, and to be a better husband. Those kinds of things happen outside of confinement, not inside of confinement. They happen with appropriate levels of therapy, not in a place where he's not going to receive any additional therapy.

So when you're looking, again, at a sentence that sufficient but not greater than necessary to comply with the rules of sentence, certainly the seriousness of the offense becomes important. And I've talked a little bit about the divide between contact, non-contact, in-person, and remote. And they're serious offenses, obviously. But they're the lower end of these types of offenses. And when you add in the fact that his 11 years of service is going to be stigmatized with a characterization equivalent to one being dishonorable with the dismissal that's going to be imposed, that type of sentence, that dismissal reflects the seriousness of the offense.

The Court went through all of the other collateral consequences as well. And I know that that's not necessarily a piece that the judge takes into consideration when you're looking at the type of sentence that's going to be imposed. It also

reflects the seriousness of the offense and how all of those things are going to impact them for the rest of his life. Because they all serve to be a deterrence. And I'll just stick with the seriousness of the offense and the deterrence aspect.

I mean, I didn't hear issues pertaining to the government, at least what the dismissal that there are issues with preserving good order and discipline and additional punishment that needs to be imposed or the need to protect society. And I submit that that's not something that needs to be a real consideration of the Court here. Because, again, what we're talking about is really the difference between 6 months and 9 months.

You know, the government says, Well, he should've thought of his family while he was doing this stuff. I mean, that's always the case. But I think what's another thing that's important for the Court to consider is, you know, who he is to his family. Again, you have a letter from his sister that talks about, even from a younger age, that he was somebody who was a caretaker. He was somebody that put helping others before himself. She's also somebody who, even on the monitored brig lines, knows that he is filled with guilt and regret and with sorrow and what his focus is with his future.

You see what he puts forth to his family and how important he is to family from the letters from his wife, who, you know, talks about, you know, him taking on the role of being a father to her son, and trying to be a role model to her son. He talked to you about how meaningful it was, just the last memory that he has of being at home saying goodbye to his son and being hugged by him. That he's got young children that he provides for, that Mrs. Alvey doesn't work and he is the sole provider for his entire family.

And, you know, as the government points out, there are some provisions in the pretrial agreement that for a period of time protect him and his family from losing pay that only lasts for so long. There's also a provision of the pretrial agreement regarding appellate leave. And as the Court knows, when you're on appellate leave, you don't get that pay. Another important reason to consider the lower end of the spectrum. And again, it's not really a collateral consequence, but it's a consideration the Court should at least have in the back of the Court's mind.

And that is, you know, that he has these young children. If he's sentenced to 6 months, he'll be out of confinement before the new year spans, enough time to execute the

requirements to be able to start appellate leave. And if necessary, pack up his family and move them back to the East Coast, which is, as his family has said, is the intent that allows the kids to be able to -- the oldest to be able to transition from a school here and a school on the East Coast during the Christmas break, as opposed to being disrupted during the spring semester.

And, again, it's just a consideration and it's something that's important to him because he is the one that's going to be providing for his family upon his discharge -- or exit onto appellate leave.

Taking all of those things into consideration, sir, what we would ask you to do is sentence him to no more than 6 months on each of those offenses so that he would be allowed to be released relatively soon, be able to go through the requirements of going on to appellate leave, allow him to begin that course of treatment through the TRICARE that he still has. But on the economy, as opposed to being limited to really nothing, what he has on base except for the medication and allowing him to begin the transition and to being a contributor to society, you know, as a civilian or an appellate leave Marine before he transitions into being a civilian.

And, you know, really start rebuilding those relationships and rebuilding before his children, before his wife and before his parents, sir.

Subject to your questions.

MJ: I have none, but thank you, defense counsel.

Mr. Stackhouse, have you advised Captain Alvey, orally and in writing, of his post-trial and appellate rights, including the rights contained in R.C.M. 1010?

ADC: Yes, Your Honor.

MJ: Excuse me, Captain Malcolm.

Does the accused have a copy of the post-trial and appellate rights advice in front of him?

ADC: Yes, sir.

MJ: Captain Alvey, I have Appellate Exhibit IV, an appellate rights advice form.

Is that your signature on the form?

ACC: Yes, sir.

MJ: Is that your signature on page 8, 9 and 10?

ACC: Yes, sir.

MJ: Did your defense counsel explain your post-trial and appellate rights to you?

ACC: Yes, sir.

MJ: Do you have any questions about your post-trial and appellate rights?

ACC: No, sir.

MJ: Which counsel will be responsible for the post-trial action on this case?

ADC: I will, Your Honor.

MJ: Captain Malcolm.

And, Captain Alvey, is that correct?

ACC: Yes, sir.

MJ: Okay. This court is closed for deliberations on the sentence.

[The court-martial closed at 1438, 27 October 2023.]

[The court-martial opened at 1532, 27 October 2023.]

MJ: This court-martial will come to order. All parties present when the court closed for deliberations are again present.

Accused and counsel, please rise.

[The accused and defense counsel did as directed.]

MJ: Captain Douglas J. Alvey, U.S. Marine Corps, this court-martial sentences you as follows:

[END OF PAGE]

To be confined for a period of time as follows:

For the sole Specification

of Charge I: 9 months.

For Specification 1 of Charge III: 9 months.

For Specification 2 of Charge III: 9 months.

For Specification 3 of Charge III: 6 months.

All periods of confinement to run concurrently.

To be dismissed from the United States Marine Corps.

You may be seated.

[The accused and defense counsel did as directed.]

MJ: The accused will be credited with 170 days of pretrial confinement against the accused's term of confinement.

Do the parties agree that the Court's sentence complies with the terms of the plea agreement?

ATC: Yes, Your Honor.

CDC: Yes, sir.

MJ: And are there any other matters we need to take up before the court adjourns?

ATC: No, Your Honor.

CDC: No, sir.

MJ: Thank you.

The court is adjourned.

[The court-martial adjourned at 1532, 27 October 2023.]

[END OF PAGE]

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

UNITED STATES)

vs.)

DOUGLAS J. ALVEY)

CAPTAIN)

U.S. MARINE CORPS)

STIPULATION OF FACT

1. Agreement

IT IS HEREBY AGREED by and between Trial Counsel and Defense Counsel, with the express consent of Captain Douglas J. Alvey, U.S. Marine Corps, that the following facts are true and admissible and cannot be controverted or contradicted by either side. Capt Alvey understands that this document may be used in multiple ways. First, the military judge may use it in ruling on applicable motions. Second, the finder of fact may use relevant portions to determine the guilt or innocence of Capt Alvey and to consider an appropriate sentence. Third, the reviewing authorities and, if applicable, the appellate courts may use it when reviewing the case for factual sufficiency, legal error, and sentence appropriateness. Capt Alvey agrees to these uses and hereby consents to this stipulation of fact being admitted into evidence in this court-martial.

2. The Accused.

Capt Alvey commissioned and entered active duty with the U.S. Marine Corps on 23 April 2013. He has remained on active duty since that date. Capt Alvey has never been released or discharged from active duty from the date of his enlistment until the present, and he has never been issued DD214 discharge papers. During all times and events described below, Capt Alvey was on active duty with the U.S. Marine Corps as a commissioned officer. Capt Alvey is currently assigned to 7th ESB, 1st MLG, Camp Pendleton, CA. His primary military occupational specialty is 1302, combat engineer officer. He has been subject to pretrial confinement as a result of this case and its charges and specifications since 10 May 2023.

3. Discussion of the Facts and Charges.

The following facts are provided in part, to establish for the Court the background against which the misconduct occurred and generally support the charges and specifications to which

1 Capt Alvey is pleading guilty. Capt Alvey agrees and admits that all of the facts below are true
2 and correct based on either his personal knowledge or his subsequent review of the investigative
3 material.

4 Capt Alvey admits that he had no legal justification for committing the below paragraphs'
5 conduct.

6 Capt Alvey admits that he was not suffering from any mental disease or defect that
7 constitutes a legal defense to this misconduct.
8

9 **Charge I, Sole Specification: Violation of UCMJ Article 80**

10 **a. Elements:** Capt Alvey understands the following elements, which reflect an attempted
11 violation of UCMJ Article 120b, and admits that he is guilty of the specification. Further, he is
12 convinced that these elements describe what he did and he is convinced of his own guilt.

13 **b.** That, Captain Douglas Alvey at or near Marine Corps Base Camp Pendleton on divers
14 occasions between on or about 11 January 2023 and 11 April 2023, did certain overt acts of
15 using Chat Avenue (an Internet Chat Room) and making telephone calls with a person Capt
16 Alvey believed to be a minor aged 13 years old whose name was Nicole. And, these
17 communications by Capt Alvey between himself and Nicole via telephone calls and Chat
18 Avenue were of a sexual nature where Capt Alvey discussed sexual activity, his sexual desires,
19 and the sexual acts he wanted to do with Nicole.

20 **c.** That the above described acts of Capt Alvey were done with the specific intent of Capt
21 Alvey to have indecent sexual communications and discuss his sexual desires with a person Capt
22 Alvey believed to be a 13 year old child named Nicole.

23 **d.** That the acts described above amounted to more than mere preparation, that they were a
24 substantial step and a direct movement toward the commission of the intended offense of sexual
25 abuse of a child involving indecent communications; and

26 **e.** That such acts apparently tended to bring about the commission of the offense of sexual
27 abuse of a child involving indecent communications, and the acts apparently would have resulted
28 in the actual commission of the offense of sexual abuse of a child involving indecent
29 communications except for the fact that the 13 year old child named Nicole was not actually a
30 child named Nicole, but was in fact an undercover law enforcement officer, a circumstance
31 unknown Capt Alvey, which prevented completion of that offense.

1 That at the time of the lewd act, Capt Alvey believed that Nicole had not attained the age of 16
2 years, and that she was 13 years old.

3 **f. Facts.**

4 Between on or about 11 January 2023 and on or about 11 April 2023, Capt Alvey used an
5 internet Chat Room called Chat Avenue. He used the internet Chat Room to chat with
6 individuals intending for the chats to become sexual in nature. In particular, Capt Alvey began
7 chatting with an individual using an account with username "nicoleeexo" on or about 4 April
8 2023.

9 There was a posting on Chat Avenue from nicoleexo that stated "13 f hmu if u from ny."
10 Capt Alvey understood this to mean nicoleexo was a 13-year old female who was asking Chat
11 Avenue users to *hit me up*, or contact her, if the user was from New York. He sent her a
12 message from his account with username "fun athlete," and stated: "Hey I am 18 m in ny, you?"
13 Capt Alvey meant to portray himself as being 18 years old. Nicole responded to his message
14 and the two continued chatting on the Chat Avenue website. Nicole then provided Capt Alvey
15 with her phone number, and they exchanged text messages between on or about 4 April 2023
16 and on or about 11 April 2023.

17 Throughout their text messages, Capt Alvey made the statements contained in the report of
18 investigation. Furthermore, Capt Alvey sent three shirtless photographs of himself to Nicole,
19 and requested that she send him "naughty" photographs. Capt Alvey admits that although he did
20 not necessarily intend for Nicole to send back naked photographs, he expected that she might
21 send naked photographs in return.

22 Capt Alvey and Nicole also spoke on the phone at least twice. These calls were recorded.
23 In these calls, Capt Alvey stated that he was "still at [his] parents' house for a little bit longer"
24 and confirmed to Nicole that he was 18 years old and from New York. He also used indecent
25 language of a sexual nature, as defined in the Manual for Court-martial, and solicited Nicole to
26 use indecent language in return. Capt Alvey has listened to the recordings and admits that he
27 said what was recorded.

28 Nicole was not a 13 year-old girl. In fact, she was an undercover investigator with the
29 Rockland County District Attorney's Office named Deborah Monahan. Capt Alvey understands
30 that although Nicole was not a real person, his communications with Ms. Monahan constitute an
31

1 attempt to commit sexual abuse of a child involving indecent communications upon a child who
2 had not attained the age of 16 years.

3
4 **Charge III, Specification 1: Violation of UCMJ Article 133**

5 **a. Elements:** Capt Alvey understands the following elements and admits that he is guilty of
6 the specification. Further, he is convinced that these elements describe what he did and he is
7 convinced of his own guilt.

8 (1) That he did, at or near Marine Corps Base Camp Pendleton, California, on divers
9 occasions, between on or about 1 April 2022 and on or about 4 May 2023, discuss his
10 sexual desires with persons he believed to be minors who had not attained the age of 16
11 years,

12 (2) and that under the circumstances, the Accused's conduct was unbecoming an officer and
13 a gentleman.

14 **b. Facts**

15 In addition to the facts described above involving Nicole, Capt Alvey admits that
16 between April 2022 and May 2023, and with other persons not Nicole, Capt Alvey chatted via
17 Android Instant Message Service and in the Chat Room called Chat Avenue with other persons
18 he believed to be under the age of 16. He chatted with these individuals about sex and discussed
19 the sexual activities he wanted to do with these people, whom Capt Alvey believed to be minors.

20 On 15 March 2023, to a person, not Nicole, Capt Alvey made statements of a sexual
21 nature to a person Capt Alvey thought was 13 years old with phone number 9362830064.
22 Captain Alvey has reviewed the ROI's containing the forensic evidence obtained from his
23 electronic communication devices, and does both agree and admit that he sent and received the
24 communications to the person he thought was a minor using phone number 9362830064
25 contained in the ROI.

26 On 6 April 2023, to a person not Nicole, Capt Alvey made these statements of a sexual
27 nature via Android Instant Message Service to a person Capt Alvey thought was a cheer leader in
28 high school with phone number 7707891970. Captain Alvey has reviewed the ROI's containing
29 the forensic evidence obtained from his electronic communication devices, and does both agree
30 and admit that he sent and received the communications to the person he thought was a minor
31 using phone number 7707891970 contained in the ROI.

1
2 At all times Capt Alvey made these statements, he was a commissioned officer on active
3 duty.

4 Conduct unbecoming an officer and a gentleman means action or behavior in an official
5 capacity which, in dishonoring or disgracing the person as an officer, seriously compromises the
6 officer's character as a gentleman, or action or behavior in an unofficial or private capacity
7 which, in dishonoring or disgracing the officer personally, seriously compromises the person's
8 standing as an officer. There are certain moral attributes common to the ideal officer and the
9 perfect gentleman, a lack of which is indicated by acts of dishonesty, unfair dealing, indecency,
10 indecorum, lawlessness, injustice, or cruelty. Not everyone is or can be expected to meet
11 unrealistically high moral standards, but there is a limit of tolerance based on customs of the
12 Service and military necessity below which the personal standards of an officer, cadet, or
13 midshipman cannot fall without seriously compromising the person's standing as an officer,
14 cadet, or midshipman or the person's character as a gentleman.

15 Here, Capt Alvey seriously compromised his character as an officer and a gentlemen by
16 in a private capacity sending via electronic communication device (cell phone/internet Chat
17 Room) of a sexual nature discussing Capt Alvey's sexual desires and discussing sex with persons
18 that Capt Alvey believed to be minors and then talking to these persons about sex via internet
19 chat messaging services.

20
21
22 **Charge III, Specification 2: Violation of UCMJ Article 133**

23 **a. Elements:** Capt Alvey understands the following elements and admits that he is guilty of
24 the specification. Further, he is convinced that these elements describe what he did and he is
25 convinced of his own guilt.

- 26 (1) That that he did, at or near Marine Corps Base Camp Pendleton, California, on divers
27 occasions, between on or about 1 April 2022 and on or about 4 May 2023, send shirtless
28 photos of himself to persons he believed to be minors who had not attained the age of 16
29 years,
30 (2) and that under the circumstances, the Accused's conduct was unbecoming an officer and
31 a gentleman.

1 **b. Facts**

2 Specifically, with Nicole (see facts above) and with other persons not Nicole, that Capt
3 Alvey believed to be minors, Capt Alvey sent photos of himself shirtless lying in bed between
4 April 2022 and May 2023.

5 Here, Capt Alvey seriously compromised his character as an officer and a gentlemen by
6 in a private capacity sending via the Internet shirtless and indecent photos of himself lying in bed
7 to persons that Capt Alvey believed to be minors and then talking to these persons about sex via
8 internet chat messaging services.

9
10 **Charge III, Specification 3: Violation of UCMJ Article 133**

11 **a. Elements:** Capt Alvey understands the following elements and admits that he is guilty of
12 the specification. Further, he is convinced that these elements describe what he did and he is
13 convinced of his own guilt.

14 (1) That he did, at or near Marine Corps Base Camp Pendleton, California, on divers
15 occasions, between on or about 13 July 2022 and on or about 4 May 2023, and while
16 married, converse with indecent language with persons he believed to be prostitutes,

17 (2) and that under the circumstances, the Accused's conduct was unbecoming an officer and
18 a gentleman.

19 **b. Facts**

20 Specifically, between July 2022 and May 2023, Capt Alvey used the Internet to visit
21 escort websites and chat rooms where he would meet persons he believed to be prostitutes online
22 and discuss payment options to pay for sex between himself and the persons he believed to be
23 prostitutes. During these conversations, Capt Alvey and the persons he believed to be prostitutes
24 would discuss indecent sex acts they would do with each other.

25 During these occasions, Capt Alvey would discuss payment arrangements with the
26 persons he believed to be prostitutes. He would instruct them where he would meet them. He
27 would discuss the sex acts that the persons he believed to be prostitutes would do to Capt Alvey
28 and how much each sex act would cost by the prostitutes performing sex acts on Capt Alvey.
29 During these Internet conversations, Capt Alvey was a Marine Corps commissioned officer on
30 active duty discussing sex acts for payment with persons he believed to be prostitutes.

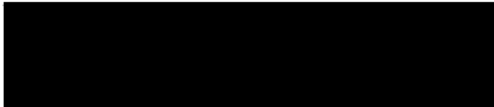
1 Here, Capt Alvey seriously compromised his character as an officer and a gentlemen by
2 in a private capacity discussing sexual services for payment with persons Capt Alvey believed to
3 be prostitutes.

4
5 **Signatures**

6
7 By my signature below, I acknowledge that I have read this document completely, discussed it
8 with my counsel, understand it in all respects, and am prepared to abide by its terms.

9
10
11 Accused:

Date: 9/27/2023


Douglas J. Alvey
Captain, U.S. Marine Corps
Accused

12
13
14 Defense Counsel:

ate: 9/27/23


Phillip Stackhouse
Civilian Defense Counsel

15
16
17 Defense Counsel:

Date: 2023 0927


Katherine E. Malcolm
Captain, U.S. Marine Corps
Military Defense Counsel

18
19
20
21 Trial Counsel:

Date: 11 October 2023

HUR, CHRISTIAN.PA

Digitally signed by
HUR, CHRISTIAN.PATRI
2023.10.11 08:34:45 -0700
Christian P. Hur
Lieutenant Colonel, U.S. Marine Corps
Trial Counsel



UNITED STATES MARINE CORPS
7TH ENGINEER SUPPORT BATTALION
1ST MARINE LOGISTICS GROUP, FMF
BOX 555677
CAMP PENDLETON CA 92055-5677

5801

ADJ

19 JUL 2023

MEMORANDUM FOR THE RECORD

Subj: CERTIFIED TRUE COPY OF 3270 SCREENS IN CASE OF CAPTAIN DOUGLAS J. ALVEY
[REDACTED] 1302 USMC

1. This is to certify that the 3270 Marine Corps Total Force System (MCTFS) screens that are provided have been certified as true copies. First Lieutenant Jemel M. Williams 1537898670/0102 USMC is the record keeper for all MCTFS screens.

2. The point of contact in this matter is Battalion Adjutant, First Lieutenant Jemel M. Williams at 760-725-5483, or at Jemel.williams@usmc.mil.

[REDACTED]
J. M. WILLIAMS

PROSECUTION EXHIBIT 2 (F10)
PAGE 1 OF 16 HHL

MCIFS BASIC INDIVIDUAL RECORD

07/19/2023

14:35:47

EDIPI: [REDACTED] NAME: ALVEY, DOUGLAS J
RUC: 21300 COMPANY CODE: 1 PRES-GRADE: 03 RECSTAT: 0 COMP CODE: 11
PLT CODE: HQS1 TRNGRP: R-RECSTAT: RCOMP-CODE:

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

EAS: 999999999 COMPONENT CODE: 11 USMC OFFICER
EOS: 20200514 ECC: 000000000 RESERVE COMPONENT CODE:
RESERVE ECC: 000000000 DATE ACCEPTED FIRST COMMISSION: 20120515
DATE OF ENL/ACCEPT: 20120515 DOD TRNGRP: PJ TRAINING GRP:
AFADB: 20130423 PEBD: 20120515 MANDATORY DRILL START: 00000000 END: 00000000
DATE OF ORIG ENTRY: 20080823 DATE OF BASIC ELIG: 20120515MDP EXT MO: 00
LENGTH CURR ENL: 0 YRS PEF: 00 NONE
LENGTH CURR ENL: 00 MOS BONUS PEF:
LENGTH CURR EXT: 00 MONTHS COLLEGE FUND PEF:
NO EXT CURR ENL: 00 MGIB-SR STATUS: C INELIGIBLE-INSUFFICI
TOTAL MONTHS EXT: 00 MONTHS ACTIVE DUTY MGIB STATUS: 3 OVEBP CODE: 0
EFF DTE CURR EXT: 000000000
MONTHS LAST ENL EXT: 00
TIME LOST CURR ENL: 0000 DAYS DESIG MIL PILOT: 00000000
SOURCE OF INT ENTRY MIL SER: 6 YEAR OBL START: 00000000
SOURCE OF ENTRY: 2F

POST 911 GIBILL ELIG BEGIN DT: 00000000 POST 911 GIBILL TR EDU BENE CD: 0
POST 911 GIBILL BENEFITS TR DT: 00000000 POST 911 GIBILL TR EDU OBL DT: 00000000

----- SERVICE INFORMATION -----

PRES GRADE: 03 DOR: 20170301 ACDU RUC: 21300 MCC: 1YB
SEL GRADE: DTE: 00000000 RESERVE RUC: 00000 MOB MCC:
FORMER RES RUC: FORMER RES MCC:
PROM RESTR STAT CD: PROM RESTR TERM DTE: 00000000 UIC: M21300
PME COMPLETE FLAG: 1TAD RUC: 00000 MCC:
PME COMPLETE EFFECTIVE DATE: 00000000 2TAD RUC: 00000 MCC:
WORK STATION: 000

BILLET DESCRIPTION:

ANNIVERSARY DATE: 20130515

PEN: 0206315M FAPRUC: 00000 RESERVE MCC:
DCTB: 20200725 FORMER RUC: 30002 FUTURE RUC: 00000
DATE JOINED PRES UNIT: 20200725 IND LOC CODE: 06 073 0543 CA SAN DIEGO
DATE JOINED SMCR: 00000000

RCSP REGION CODE: TC RCSP REGION ASSIGN DATE: 20131106

RCSP REGION DESCRIPTION: TRANSCAUCASUS

GEO LOC CODE: 920 RCSP COMPLETE FLAG:

GEO LOC DCTB: 202007

COMBAT SERV CODE: 0 ROTATION TOUR DATE: 00000000

LAST COMBAT TOUR: 00000000 OVERSEAS CONTROL DATE: 20170127

OFF REMOVAL DATE: 00000000 LAST PHYS EXAM: 20070822

RESERVE UNIT JOIN DATE: 00000000 PHA DATE: 20200521

LAST SEP/DISCH DATE: 00000000

REASON:

PMOS: 1302 ADMOS1: 8057 ADMOS6: ADMOS11:
BMOS: 1302 ADMOS2: ADMOS7: ADMOS12:
SMOS: 0000 ADMOS3: ADMOS8:
JMOS: ADMOS4: ADMOS9:
JMOS ED: 00000000 ADMOS5: ADMOS10:
LAW ENFORCE/COUNTERINTEL ID: ISSUE DATE: 00000000

PROSECUTION EXHIBIT 2
PAGE 2 OF 16

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

DATE OF BIRTH: [REDACTED] HOME OF RECORD: [REDACTED]
 HOME OF RECORD ZIP CODE: [REDACTED]
 CITIZENSHIP: CA US COUNTRY OF ORIGIN: US UNITED STATES
 BLOOD TYPE: 3 B NEG CIVILIAN ED LEVEL: 16 COLLEGE-4
 SEX: M CERT: K BACHELORS MAJOR: 52 HISTORY
 RACE AGG CODE: E RACE CODE: E WHITE
 POPULATION GROUP: WHITE
 ETHNIC CODE: P EUROPEAN/ANGLO
 RELIGION: CC CATHOLIC CHURCHES, OTHER
 DNA DATE: 20130607 HIV-TESTED: 201904
 GOOD CONDUCT MEDAL DATE: 00000000 SMCR MEDAL DATE: 00000000
 ARMED FORCES RESERVE MEDAL DATE: 00000000

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

HOME TELEPHONE NUMBER: 000-000-0000
 CELL PHONE NUMBER: [REDACTED]
 SECONDARY PHONE NUMBER: 000-000-0000
 WORK TELEPHONE NUMBER: [REDACTED]
 WORK DSN PHONE NUMBER PREFIX: 365

MAILING ADDRESS: 32972 VALENCE CT
 TEMECULA CA 925920000

ADDRESS VALIDATION: J MOL VALIDATION ONLY
 PHYSICAL ADDRESS: [REDACTED]

WORK EMAIL: DOUGLAS.ALVEY@USMC.MIL

WORK EMAIL DATE: 20140520
 PERSONAL EMAIL: [REDACTED]

PERSONAL EMAIL DATE: 20130226
 SECONDARY EMAIL: [REDACTED]

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

RECORD STATUS: 0 ACTIVE STATUS RESERVE RECORD STATUS:
 DISPUTED DATE: 00000000 DISPUTED DATA:
 LAST SCREENING: 20220512 REASON: 2 ANNUAL SCREEN QUEST
 SCREENING RESULT: Z ANNUAL SCREENING COMPL FOR ACDU ONLY
 BAH DEPN CERTIFICATION DT: 20220512

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

MARITAL STATUS: M MARRIED TOTAL NUMBER DEPENDENTS: 04
 DEPN CERT CODE: NONE
 DEPN GEO LOC CODE: 925 DATE DEPN LOC BEGAN: 20200724
 CUSTODY STATUS CODE: 0
 SERVICE SPOUSE CODE: FAM CARE PLAN VAL DT: 20220614
 SERVICE SPOUSE DATE: 00000000

REL	SEX	CD	DOB	DEPN NAME	GAIN DATE	LOCATION
SS	M	[REDACTED]	[REDACTED]	[REDACTED]	20170826	060653851
SP	F	[REDACTED]	[REDACTED]	[REDACTED]	20170826	060653851
LD	F	[REDACTED]	[REDACTED]	[REDACTED]	20181012	060653851
LD	F	[REDACTED]	[REDACTED]	[REDACTED]	20220226	060653851

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

FUTURE BILLET IDENT CODE: A0000000000

PROSECUTION EXHIBIT 2
 PAGE 3 OF 16

ASSIGNED BILLET IDENT CODE: A00000000000

PRESENT BILLET IDENT CODE: M21301EX107

RESERVE BILLET IDENT CODE:

FAP BILLET IDENT CODE:

FORMER BILLET IDENT CODE: M3710100425

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

DUTY STATUS: B/CONFINED AAHA
DUTY LIMIT: 0/NONE
DUTY LIMIT ED: 20120515
STR CAT: 0/ON DUTY W/BILLET THAT SERVES COMMAND MSN
STR CAT ED: 20230504
COMBAT CAS:
COMBAT CAS ED: 00000000

----- RETIREMENT INFORMATION -----

DATE 1ST ELIG RET (RES): 00000000
RET/FMCR DATE: 20230601
RET/FMCR FLAG: X
RET/FMCR STAT: REQUEST HELD IN ABEYANCE
RET/RETN FLAG:
RET/RETN DATE: 00000000

----- CG/CO/OIC INFORMATION -----

CODE	DESC	PROM AUTH	FROM DATE	TO DATE
*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***				

I CERTIFY THAT MY ELIGIBILITY FOR ENTITLEMENT TO BASIC ALLOWANCE FOR HOUSING (BAH) AND DEPENDENTS LISTED ON MY DEPENDENCY ENTITLEMENT APPLICATION (NAVMC 10922) HAS/HAS NOT CHANGED SINCE MY LAST CERTIFICATION/UPDATE.

SIGNATURE: _____ DATE: _____ DEPN ZIP
IF APPLICABLE

BIR CERTIFICATION SIGNATURE REQUIRED FOR BOTH ACTIVE DUTY AND RESERVE MARINES:

MARINE: _____ DATE: _____ AUDITOR: _____ UD NUM: _____

MCTFS BASIC TRAINING RECORD

07/19/2023

14:35:53

EDIPI: [REDACTED] NAME: ALVEY, DOUGLAS J
RUC: 21300 COMPANY CODE: 1 PRES-GRADE: 03 RECSTAT: 0 COMP CODE: 11
PLT CODE: HQS1 TRNGRP: R-RECSTAT: RCOMP-CODE:

----- UNIT TRAINING -----

GAS MASK SIZE:
GAS MASK TYPE:
HELMET SIZE:

WATER SURVIVAL CODE: C WATER SURVIVAL BASIC
WATER SURV REQAL DATE: 202405

WEIGHT CONTROL STATUS: HEIGHT: 69
WEIGHT CONTROL DATE: 00000000 WEIGHT: 184
MIL APPEARANCE STATUS: BODY FAT: 00 %
MIL APPEARANCE DATE: 00000000 HT/WT/BF/EFF/DATE: 20230308
WT CNTL QY: 00 MILAP QY: 00 WITHIN HT/WT STANDARDS FLAG: Y

----- UNIT TRAINING -----

INCUR OBLIG SERV DATE: 00000000
INCUR OBLIG SERV CODE: INTELLIGENCE TRAINING HOURS: 00

----- SERVICE TRAINING -----

CODE	TRAINING DESCRIPTION	DATE
CS	CASUALTY ASSISTANCE CALLS OFFICER TRAINING	20221017
AO	ANNUAL OPSEC TRAINING	20230224
TA	TRANSITION READINESS SEMINAR (TRS)	20221209
AB	ANTITERRORISM (AT LEVEL I) ANNUAL TRAINING DATE	20230125
AK	RISK MANAGEMENT	20230125
PC	PROHIBITED ACTIVITIES & CONDUCT	20230124
DA	MC RECORDS MANAGEMENT COURSE	20230104
DK	USE OF DEADLY FORCE TRAINING	20221219
FD	ANNUAL FINANCIAL EDUCATION (PCS)	20220909
AN	INFORMATION ASSURANCE AWARENESS TRAINING	20221004
PI	PERSONAL IDENTIFIABLE INFORMATION	20221004
UR	ANNUAL URINALISIS	20220621
B9	UMAPIT	20220825
AG	GAS CHAMBER	20220819
AT	SEXUAL ASSAULT PREVENTION AND RESPONSE ANNUAL TRAINING	20220809
O3	OSCAR TRAINER	20160411
SR	SUBSTANCE ABUSE PREVENTION FOR LEADERS	20220216
VA	VIOLENCE PREVENTION AWARENESS COURSE	20211122
VB	VIOLENCE PREVENTION RECOGNITION COURSE	20211122
BD	TOBACCO PREVENTION AND CESSATION (SF)	20210126
Z2	(ADMIN ONLY) SECOND STAGE JOIN AUDIT COMPLETE	20200807
TP	COMBATING TRAFFICKING IN PERSONS	20200908
AS	ANNUAL HAZING PREVENTION TRAINING	20180924
AQ	ANNUAL MILITARY EO TRAINING (MEO)	20180924
AR	ANNUAL SEXUAL HARASSMENT TRAINING	20180924
SB	TAKE A STAND (SEXUAL ASSAULT NCO CRS)	20180711
SE	STEP UP (SAPR FOR JUNIOR MARINES)	20180711
ER	OQR/SRB SCAN TO E-RECORD COMPLETED	20171031
YR	YOUR READINESS	20170428
BS	BRIS NOTIFICATION TRAINING	20170213
AU	SUICIDE AWARENESS TRAINING (SF)	20160129

PROSECUTION EXHIBIT 2
PAGE 5 16

SF	INVALID	20150527
AF	SEXUAL HEALTH (STI/HIV) TRAINING (SF)	20150116
C1	INVALID	20141126
C2	TRAUMATIC BRAIN INJURY PREVENTION AND AWARENESS	20140912
PV	INVALID	20140522
AV	INVALID	20140429
BG	NUTRITION TRAINING (SF)	20140502
BE	PHYSICAL FITNESS TRAINING (SF)	20140502
BK	HYPERTENSION EDUCATION AND CONTROL TRAINING (SF)	20140501
BF	INJURY PREVENTION TRAINING (SF)	20140501
HP	HEAT INJURY PREVENTION PROGRAM	20130502
A2	DRIVER AWARENESS (ALIVE AT 25, AAA-DIP, ETC)	20130403

----- SERVICE SCHOOLS/SPECIAL SKILLS -----

CODE	SCHOOL/SPECIAL SKILLS	ST DATE	CODE	SCHOOL/SPECIAL SKILLS	ST DATE
A56	RCSP - BASIC	PA 2020	KHE	EWSDEP 8670	PA 2019
ACC	COMBAT ENGINEER OFFICER	PA 2014	RMG	BASIC OFFICER COURSE	PA 2013

----- TEST SCORES -----

CLAS/ASGN TEST-TYPE:	GCTTEST	DATE:	20130614	GT/GCT:	128
SCORES:	RV -143 AC -114 AR -124 PA -123			CCAT SCR:	000

ARMY RADIO CODE-	SCORE:	000	DATE:	00000000	AFQT FORM #:	000	AFQT -	00
ELEC/DP TEST-	SCORE:		DATE:	00000000	TAPAS VERSION:		SCORE:	00
DLAB -	SCORE:	000	DATE:	00000000	TAPAS TEST DATE:	00000000		
					CYBR TST VER:		SCORE:	
					CYBER TEST DATE:	00000000		

----- FOREIGN LANGUAGE PROFICIENCY -----

LANG	LANGUAGE	SOURCE	TEST	TYPE	TEST	EXP	TYPE	SKILL
CODE	DESCRIPTION	CODE	RANGE	TEST	DATE	DATE	SKILL	LEVEL

*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***

----- MARTIAL ARTS TRAINING -----

	COMPL	INSTR	INSTR		REASON	REVOKE
CODE	DATE	EXP DATE	EXT DATE	DESC	REVOKED	EFF DATE
MMH	20161031	00000000	00000000	BLACK BELT 1ST DEGREE	0	00000000
MMF	20140402	00000000	00000000	BROWN BELT	0	00000000
MMD	20140328	00000000	00000000	GREEN BELT	0	00000000
MMC	20130821	00000000	00000000	GRAY BELT	0	00000000
MMB	20130606	00000000	00000000	TAN BELT	0	00000000

----- INFORMATION ASSURANCE (IA) -----

*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***

----- PHYSICAL FITNESS TEST -----

	EFF							
SCORE	DATE	CODE	CLASS	PULL-UPS	PUSH-UPS	CRUNCHES	PLANK	RUN
259	20220628	1	1	21		120		23:45
276	20210628	1	1	22		120		21:40

----- COMBAT FITNESS TEST -----

	EFF					
SCORE	DATE	CODE	CLASS	MOVEMENT	AMMO	MANEUVER
				TO CONTACT	LIFT	
276	20221216	2	1	03:10	120	
261	20211220	2	1	03:10	120	

----- MARKSMANSHIP -----

SERVICE RIFLE

CURRENT QUAL DATE: 20220922

SCORE: CLASS CD: S DESTROYS/DRILLS: 34/3

COURSE OF FIRE: ARQ

SCORES TABLE 1/1A: 000 TABLE 2: 000

EXPERT QUALIFICATIONS: 03

EXCEPTION: EXCEPTION EXPIRE DATE: 00000000

DISTINGUISHED DATE: 00000000

SERVICE PISTOL

CURRENT QUAL DATE: 20220727

SCORE: 364 CLASS CD: E

COURSE OF FIRE: CPP

EXPERT QUALIFICATIONS: 05

EXCEPTION: EXEMPT EXCEPTION EXPIRE DATE: 20230930

DISTINGUISHED DATE: 00000000

MCTFS REMARK OPTIONS SUB MENU

CATG
CODE

DESCRIPTION

- D### - DISPLAYS A DETAIL LISTING FOR A REMARK IN SEQUENCE NUMBER ORDER.
- P### - DISPLAYS A DETAIL LISTING FOR A REMARK IN PROCESSING SEQUENCE ORDER.
- S### - DISPLAYS A SUMMARY LISTING FOR A REMARK IN SEQUENCE NUMBER ORDER.
- T### - DISPLAYS A SUMMARY LISTING FOR A REMARK IN PROCESSING SEQUENCE ORDER.
- H### - DISPLAYS A HEX LISTING FOR A REMARK.
- R### - DISPLAYS A RESEARCH ADR LISTING FOR A REMARK IN SEQUENCE NUMBER ORDER.

INSTRUCTIONS: REPLACE ### WITH A VALID REMARK NUMBER.
(ALL remarks have a Detail display and Hex display,
however, only SOME remarks will have a Summary display.
Remark 614, 709, 710, 790 and 809 will not have a
Research ADR display.)

ENTER REQUESTED CATEGORY CODE: D119
ENTER EDIPI: [REDACTED] OR ENTER SSN: _____
ENTER REMARK SEQ NBR: _____ (OPTIONAL) PRINTER ID: PSNM5452
INVALID KEY PRESSED, MAKE CHOICE AND PRESS ENTER
PF1 - HELP PF3 - EXIT TO MAIN MENU

**** AWARDS ****

07/19/2023
14:36:18

EDIPI: [REDACTED] NAME: ALVEY, DOUGLAS J
RUC: 21300 COMPANY CODE: 1 PRES-GRADE: 03 RECSTAT: 0 COMP CODE: 11
PLT CODE: HQS1 TRNGRP: R-RECSTAT: RCOMP-CODE:

CODE	ENGLISH	NUMBER
NC	NAVY AND MARINE CORPS COMMENDATION MEDAL	001
NA	NAVY AND MARINE CORPS ACHIEVEMENT MEDAL	001
SD	SEA SERVICE DEPLOYMENT RIBBON	001
WT	GLOBAL WAR ON TERRORISM SERVICE MEDAL	001
NN	NATIONAL DEFENSE SERVICE MEDAL	001
LA	LETTER OF APPRECIATION	001

GOOD CONDUCT MEDAL DATE: 00000000
ARMED FORCES RESERVE MEDAL DATE: 00000000
SMCR MEDAL DATE: 00000000

EDIPI: [REDACTED] NAME: ALVEY, DOUGLAS J
RUC: 21300 COMPANY CODE: 1 PRES-GRADE: 03 RECSTAT: 0 COMP CODE: 11
PLT CODE: HQS1 TRNGRP: R-RECSTAT: RCOMP CODE:

DOR: 20170301 MAJOR SUBJECT: 52 HISTORY
EDUCATION LEVEL: 16 COLLEGE-4 PME COMPLETE FLAG:
EDUCATION CERTIFICATE: K BACHELORS PME COMPLETE EFFECTIVE DATE: 00000000
RCSP REGION CODE: TC FINANCIAL EDUC PCS FLAG: 0
RCSP COMPLETE FLAG: FINANCIAL EDUC COMPLETE FLAG: Y
RCSP REGION ASSIGN DATE: 20131106 FINANCIAL EDUC COMPLETE DATE: 20221209
RCSP REGION DESCRIPTION: TRANSCAUCASUS

SERVICE SCHOOLS/SPECIAL SKILLS

CODE	SCHOOL/SPECIAL SKILLS	ST DATE	CODE	SCHOOL/SPECIAL SKILLS	ST DATE
A56	RCSP - BASIC	PA 2020	KHE	EWSDEP 8670	PA 2019
ACC	COMBAT ENGINEER OFFICER	PA 2014	RMG	BASIC OFFICER COURSE	PA 2013

MCI COURSES

CRS NO	COURSE TITLE	COMPL DATE	STATUS CODE	SCORE
*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***				

OFF DUTY EDUCATION

DATE	COURSE TITLE	SCHOOL AND LOCATION	CREDIT	GRADE
*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***				

EDUCATION BONUS POINTS CURRENT GRADE: 000

ACADEMIC TESTS

DATE	COURSE TITLE	COURSE LOCATION	CREDIT	GRADE
*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***				

LOCAL SCHOOLS

DATE	SCHOOL DESCRIPTION	SCHOOL LOCATION
*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***		

MARINENET COURSES

CRS NO	COURSE TITLE	COMPL DATE	EDUC PT CREDIT	STATUS CODE	SCORE
CAC000CUR1	HQMC CASUALTY ASST C	20221017	N	Z	A
SDRMGTSUL0	RISK MGMT FOR SMALL	20230125	Y	Z	A
NCISTHREAT	NCIS CI & INSIDER TH	20230118	N	Z	A
CACOTRN008	CACO TRAINING MODULE	20221017	N	Z	A
CACOTRN007	CACO TRAINING MODULE	20221017	N	Z	A

EDIPI: [REDACTED] NAME: ALVEY, DOUGLAS J
RUC: 21300 COMPANY CODE: 1 PRES-GRADE: 03 RECSTAT: 0 COMP CODE: 11
PLT CODE: HQS1 TRNGRP: R-RECSTAT: RCOMP CODE:

MARINENET COURSES

CRS NO	COURSE TITLE	COMPL DATE	EDUC PT CREDIT	STATUS CODE	SCORE
CACOTRN006	CACO TRAINING MODULE	20221017	N	Z	A
CACOTRN005	CACO TRAINING MODULE	20221017	N	Z	A
CACOTRN004	CACO TRAINING MODULE	20221013	N	Z	A
CACOTRN003	CACO TRAINING MODULE	20221013	N	Z	A
CACOTRN002	CACO TRAINING MODULE	20221013	N	Z	A
CACOTRN001	CACO TRAINING MODULE	20221004	N	Z	A
NCISTHREAT	NCIS CI & INSIDER TH	20220819	N	Z	A
CACO00CUR1	HQMC CASUALTY ASST C	20210915	N	Z	A
CACOTRN008	CACO TRAINING MODULE	20210914	N	Z	A
CACOTRN007	CACO TRAINING MODULE	20210914	N	Z	A
CACOTRN006	CACO TRAINING MODULE	20210914	N	Z	A
CACOTRN005	CACO TRAINING MODULE	20210914	N	Z	A
CACOTRN004	CACO TRAINING MODULE	20210914	N	Z	A
CACOTRN003	CACO TRAINING MODULE	20210914	N	Z	A
CACOTRN002	CACO TRAINING MODULE	20210914	N	Z	A
CACOTRN001	CACO TRAINING MODULE	20210914	N	Z	A
SDRMGTSUL0	RISK MGMT FOR SMALL	20200122	Y	Z	A
M02RMT0700	REC MGMT (DEPT OF TH	20191127	N	Z	A
8660AZSEM0	EXPEDITIONARY WARFAR	20190515	N	Z	A
8664AZSEM0	EWSDEP AMPHIB OPS	20190515	Y	Z	A
8663AZSEM0	EWSDEP MAGTF OPS PRA	20190121	Y	Z	A
RTAMLRSOAA	RANGE LASER SAFETY	20190128	N	Z	A
RTAMRSOCAA	RANGE SAFETY	20190128	N	Z	A
8662AZ0000	EWS DEP 8662 MAGTF O	20180911	Y	Z	A
CLRO3TC00B	RCLF TRANSCAUCASUS O	20180523	Y	Z	A
BRSOPTIN01	BLENDED RETIREMENT S	20170627	N	Z	A
SDRMGTSUL0	RISK MGMT FOR SMALL	20170317	Y	Z	A
8661AZ0000	EWSDEP 8661 WARFIGHT	20160920	Y	Z	A
CLRO2TC00A	RCLF TRANSCAUCASUS O	20150904	Y	Z	A
CLRCULT01A	RCLF CULTURE 101	20140918	Y	Z	A
UT03AO0000	UTM PLATOON LEVEL	20130822	Y	Z	A

EDIPI: [REDACTED] NAME: ALVEY, DOUGLAS J
RUC: 21300 COMPANY CODE: 1 PRES-GRADE: 03 RECSTAT: 0 COMP CODE: 11
PLT CODE: HQS1 TRNGRP: R-RECSTAT: RCOMP CODE:

DOR: 20170301 MAJOR SUBJECT: 52 HISTORY
EDUCATION LEVEL: 16 COLLEGE-4 PME COMPLETE FLAG:
EDUCATION CERTIFICATE: K BACHELORS PME COMPLETE EFFECTIVE DATE: 00000000
RCSP REGION CODE: TC FINANCIAL EDUC PCS FLAG: 0
RCSP COMPLETE FLAG: FINANCIAL EDUC COMPLETE FLAG: Y
RCSP REGION ASSIGN DATE: 20131106 FINANCIAL EDUC COMPLETE DATE: 20221209
RCSP REGION DESCRIPTION: TRANSCAUCASUS

SERVICE SCHOOLS/SPECIAL SKILLS

CODE	SCHOOL/SPECIAL SKILLS	ST DATE	CODE	SCHOOL/SPECIAL SKILLS	ST DATE
A56	RCSP - BASIC	PA 2020	KHE	EWSDEP 8670	PA 2019
ACC	COMBAT ENGINEER OFFICER	PA 2014	RMG	BASIC OFFICER COURSE	PA 2013

MCI COURSES

CRS NO	COURSE TITLE	COMPL DATE	STATUS CODE	SCORE
*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***				

OFF DUTY EDUCATION

DATE	COURSE TITLE	SCHOOL AND LOCATION	CREDIT	GRADE
*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***				

EDUCATION BONUS POINTS CURRENT GRADE: 000

ACADEMIC TESTS

DATE	COURSE TITLE	COURSE LOCATION	CREDIT	GRADE
*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***				

LOCAL SCHOOLS

DATE	SCHOOL DESCRIPTION	SCHOOL LOCATION
*** THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI ***		

MARINENET COURSES

CRS NO	COURSE TITLE	COMPL DATE	EDUC PT CREDIT	STATUS CODE	SCORE
CACO00CUR1	HQMC CASUALTY ASST C	20221017	N	Z	A
SDRMGTSUL0	RISK MGMT FOR SMALL	20230125	Y	Z	A
NCISTHREAT	NCIS CI & INSIDER TH	20230118	N	Z	A
CACOTRN008	CACO TRAINING MODULE	20221017	N	Z	A
CACOTRN007	CACO TRAINING MODULE	20221017	N	Z	A

EDIPI: [REDACTED] NAME: ALVEY, DOUGLAS J

RUC: 21300 COMPANY CODE: 1 PRES-GRADE: 03 RECSTAT: 0 COMP CODE: 11
PLT CODE: HQS1 TRNGRP: R-RECSTAT: RCOMP CODE:

MARINENET COURSES

CRS NO	COURSE TITLE	COMPL DATE	EDUC PT CREDIT	STATUS CODE	SCORE
CACOTRN006	CACO TRAINING MODULE	20221017	N	Z	A
CACOTRN005	CACO TRAINING MODULE	20221017	N	Z	A
CACOTRN004	CACO TRAINING MODULE	20221013	N	Z	A
CACOTRN003	CACO TRAINING MODULE	20221013	N	Z	A
CACOTRN002	CACO TRAINING MODULE	20221013	N	Z	A
CACOTRN001	CACO TRAINING MODULE	20221004	N	Z	A
NCISTHREAT	NCIS CI & INSIDER TH	20220819	N	Z	A
CACO00CUR1	HQMC CASUALTY ASST C	20210915	N	Z	A
CACOTRN008	CACO TRAINING MODULE	20210914	N	Z	A
CACOTRN007	CACO TRAINING MODULE	20210914	N	Z	A
CACOTRN006	CACO TRAINING MODULE	20210914	N	Z	A
CACOTRN005	CACO TRAINING MODULE	20210914	N	Z	A
CACOTRN004	CACO TRAINING MODULE	20210914	N	Z	A
CACOTRN003	CACO TRAINING MODULE	20210914	N	Z	A
CACOTRN002	CACO TRAINING MODULE	20210914	N	Z	A
CACOTRN001	CACO TRAINING MODULE	20210914	N	Z	A
SDRMGTSUL0	RISK MGMT FOR SMALL	20200122	Y	Z	A
M02RMT0700	REC MGMT (DEPT OF TH	20191127	N	Z	A
8660AZSEM0	EXPEDITIONARY WARFAR	20190515	N	Z	A
8664AZSEM0	EWSDEP AMPHIB OPS	20190515	Y	Z	A
8663AZSEM0	EWSDEP MAGTF OPS PRA	20190121	Y	Z	A
RTAMLRSOAA	RANGE LASER SAFETY	20190128	N	Z	A
RTAMRSOCAA	RANGE SAFETY	20190128	N	Z	A
8662AZ0000	EWS DEP 8662 MAGTF O	20180911	Y	Z	A
CLRO3TC00B	RCLF TRANSCAUCASUS O	20180523	Y	Z	A
BRSOPTIN01	BLENDED RETIREMENT S	20170627	N	Z	A
SDRMGTSUL0	RISK MGMT FOR SMALL	20170317	Y	Z	A
8661AZ0000	EWSDEP 8661 WARFIGHT	20160920	Y	Z	A
CLRO2TC00A	RCLF TRANSCAUCASUS O	20150904	Y	Z	A
CLRCULT01A	RCLF CULTURE 101	20140918	Y	Z	A
UT03AO0000	UTM PLATOON LEVEL	20130822	Y	Z	A

09

EDIPI: [REDACTED] NAME: ALVEY, DOUGLAS J
 RUC: 21300 COMPANY CODE: 1 PRES-GRADE: 03 RECSTAT: 0 COMP CODE: 11
 PLT CODE: HQS1 TRNGRP: R-RECSTAT: RCOMP-CODE:
 RECOMMENDED FOR PROMOTION: Y
 GRADE SELECT: PRESENT GRADE SP CODE:
 PRESENT GRADE DOR: 20170301
 GRADE SELECT DATE: 00000000 PRESENT GRADE EFFDTD: 20170301
 PERMANENT GRADE: 03 PERMANENT GRADE DOR: 20170301
 PROM RESTR STATUS CD: 0 PROM RESTR TERM DT: 00000000
 STAFF SENIORITY NUMBER: 0000.0 STAFF BOARD NUMBER:
 PME COMPLETE FLAG: RCSP COMPLETE FLAG:
 PME COMPLETE EFF DATE: 00000000

PAY GRADE 702 REMARK

PAY GRD CODE	FROM DATE	TO DATE	LES CD	ADR TYP-DOC#-YEAR-RUC-DPI-TTC TCH DATE
O3	20170301	00000000	N	B: 4-00031-2017-54806-09-0066-20170301 E: 4-00031-2017-54806-09-0066-20170301
O2	20140529	20170228	N	B: 4-00059-2014-54806-09-0066-20140529 E: 4-00031-2017-54806-09-0066-20170301
O1	20130423	20140528	N	B: 1-02392-2013-46252-09-0022-20130425 E: 8-00059-2014-54806-09-0066-20140529

MCTFS REMARK OPTIONS SUB MENU

CATG

CODE DESCRIPTION

D### - DISPLAYS A DETAIL LISTING FOR A REMARK IN SEQUENCE NUMBER ORDER.
P### - DISPLAYS A DETAIL LISTING FOR A REMARK IN PROCESSING SEQUENCE ORDER.
S### - DISPLAYS A SUMMARY LISTING FOR A REMARK IN SEQUENCE NUMBER ORDER.
T### - DISPLAYS A SUMMARY LISTING FOR A REMARK IN PROCESSING SEQUENCE ORDER.
H### - DISPLAYS A HEX LISTING FOR A REMARK.
R### - DISPLAYS A RESEARCH ADR LISTING FOR A REMARK IN SEQUENCE NUMBER ORDER.

INSTRUCTIONS: REPLACE ### WITH A VALID REMARK NUMBER.
(ALL remarks have a Detail display and Hex display,
however, only SOME remarks will have a Summary display.
Remark 614, 709, 710, 790 and 809 will not have a
Research ADR display.)

ENTER REQUESTED CATEGORY CODE: D925

ENTER EDIPI: [REDACTED] OR ENTER SSN: _____

ENTER REMARK SEQ NBR: _____ (OPTIONAL)

PRINTER ID: PSNM5452

THERE ARE NO REMARKS FOR INPUT SSN OR EDIPI.

PF1 - HELP

PF3 - EXIT TO MAIN MENU

07/19/2023
14:40:35

EDIPI: [REDACTED] NAME: ALVEY, DOUGLAS J

RUC: 21300 COMPANY CODE: 1 PRES-GRADE: 03 RECSTAT: 0 COMP CODE: 11
PLT CODE: HQS1 TRNGRP: R-RECSTAT: RCOMP-CODE:

SEQ	KILL DATE	ADJ FLG	FROM DATE	TO DATE	BRANCH	SERVICE COMPONENT	REASON	TIME LOST	APPLY FLG
00002	999999		20130423	00000000	USMC	REG	ACT	0000	

DOEAF: 20080823 LES ADR TYP-DOC#-YEAR-RUC-DPI-TTC TCH DATE
AFADBD: 20130423 CODE B: 8-99999-9999-99999-99-X796-20180529
PEBD: 20120515 E: 8-99999-9999-99999-99-X796 20180529

SEQ	KILL DATE	ADJ FLG	FROM DATE	TO DATE	BRANCH	SERVICE COMPONENT	REASON	TIME LOST	APPLY FLG
00001	201912		20120515	20130422	USMC	RES	ACT	0000	

DOEAF: 20080823 LES ADR TYP-DOC#-YEAR-RUC-DPI-TTC TCH DATE
AFADBD: 20130423 CODE B: 8-99999-9999-99999-99-J192-20191121
PEBD: 20120515 N E: 8-99999-9999-99999-99-J192-20191121

CUI

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION

01MAY23

CONTROL: 26APR23-NEEA-00059-8EMA/T

S/ALVEY, DOUGLAS JAMES/CAPT USMC
M/W/MO03/S/ [REDACTED] 18FEB90/FORT HUACHUCA, AZ

REVIEW OF EVIDENCE PROVIDED BY ROCKLAND COUNTY, NY DISTRICT ATTORNEY'S
OFFICE/01MAY23

1. On 01MAY23, Reporting Agent (RA) and Participating Agent (PA) Anthony GOLT conducted a review of the USB drive obtained from Debbie MONAHAN, CIV, Investigator, Rockland County District Attorney's Office (RCDAO) pertaining to the captioned investigation. The USB drive was obtained utilizing a signed NCIS Request to Obtain NON-DOD Records, Enclosure (A) pertains. The USB drive was entered into the NCISRA Earle, NJ evidence system under log number 019-23. A working copy of the data on the USB drive was made on 26APR23 and subsequently placed onto an optical disk. The optical disk is appended to this report as Enclosure (B). The below is a summary only, and does not account for the entirety of the evidence obtained from RCDAO due to volume of the provided information. Please refer to the aforementioned disk for a complete copy of the data.

2. MONAHAN was initially contacted by S/ALVEY on the website Chat Avenue (<https://www.chat-avenue.com>). MONAHAN created a profile with the username "nicoleeexo" stating "13 f hmu if u from ny." MONAHAN created the profile in the "Teen Chat" chatroom, which is a chat room specifically designed for teenagers between the ages of 13 and 19. S/ALVEY engaged in a chat with MONAHAN using the profile "fun athlete" beginning at 14:32 (Eastern Daylight Time) on 04APR23 by stating "Hey i am 18 m in ny, you?"

3. S/ALVEY asks MONAHAN if she is single and she replies "yaaaa." S/ALVEY says "Yeah id love to hangout with you, maybe go shopping or a movie or something." MONAHAN replies "that would be funnnn." MONAHAN and S/ALVEY discuss a time when S/ALVEY can come pick her up. S/ALVEY suggests "Yeah, maybe some m9vie making out too haha." MONAHAN responds "oooo ;)." S/ALVEY asks if that is okay and also if touching is okay. MONAHAN says "that's okkk." MONAHAN says "well ive done a lil touchin before" "a lil on top." S/ALVEY asks "On your chest?" S/ALVEY says "How did you like that? What size are you?" MONAHAN responds "34 a" to which S/ALVEY says "Nice, id love to touch on them too" "touch all over you in the movies." S/ALVEY asks "Can I take your shirt and bra off too?" MONAHAN says "yaaaaa" and S/ALVEY says "Nice, i will like them a lot" "You will get me very hard lol yes."

4. MONAHAN provides S/ALVEY with her phone number, (845) 681-2731 and S/ALVEY provides his phone number of (443) 307-1291 for texting. MONAHAN and S/ALVEY exchanged numerous text messages from 04APR23 - 11APR23. Due to the volume of the amount of text messages, RA completed a table to act as a sample of some of the text messages between MONAHAN and S/ALVEY. Please

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

CONTROL:26APR23-NEEA-00059-8EMA/T

01MAY23

refer to the enclosed table for specific details of the messages, Enclosure (C) pertains. S/ALVEY also sent MONAHAN (3) photos of himself while they were texting, S/ALVEY is not wearing a shirt in (2) of the photos. The photos were placed onto an NCIS photographic template, Enclosure (D) pertains.

5. RCDAO also provided the audio for (2) recorded phone calls between S/ALVEY and MONAHAN. The below is a summary only and does not account for the entirety of the audio obtained from RCDAO, please refer to the aforementioned disk for the complete audio:

a. First call (5APR23 @ 11:11 EDT - 44:10):

i. 3:00 - "I'd really love to come see you"

ii. 3:42 - "Hopefully we've got a good day soon where I can come and see you"

iii. 5:29 - states he is from Maryland originally, parents moved up to NY recently

iv. 7:28 - "We can cuddle a few times"

v. 7:59 - "You're so cute and pretty, you get me all excited and naughty"

vi. 11:43 - "And that's why I keep thinking naughty stuff, because of how pretty and cute and hot you are"

vii. 11:56 - "I want to cuddle up in bed with you, shirtless"

viii. 12:14 - "Make both of us wet"

ix. 13:09 - "You and I just naked, cuddling"

x. 14:05 - "I would like to touch and kiss you all over"

xi. 15:00 - (MONAHAN: Would you like to do it in the car?) "That's fine. We can do it anywhere you would like."

xii. 15:54 - "We'd have to find a big spot to go ..."

xiii. 16:18 - (MONAHAN: Would you want to go all the way with me?) "Yes I do, definitely"

xiv. 17:10 - "Kissing you and doing other stuff with you would get me super super excited with you"

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

CONTROL: 26APR23-NEEA-00059-8EMA/T

01MAY23

xv. 19:58 - S/ALVEY confirms he is 18

xvi. 20:25 - MONAHAN (I'm 5 years younger than you. [18] that's not that old). MONAHAN (Do you care?) S/ALVEY says "I don't care."

xvii. 21:03 - "Some people think that's too old" (referring to S/ALVEY being 18).

xviii. 22:57 - "I definitely definitely want to come down there and be with you." Talk about going to see Puss N Boots, having popcorn at the theater

xix. 24:21 - (MONAHAN: You want to do the naughty thing first) "Might be hard to contain myself."

xx. 24:56 - "We can do more naughty stuff after." Discussion about whether it will hurt with it being her first time - he says it will but it will get better. He'll try to be gentle.

xxi. 27:00 - Starts discussing how he will have sex - wants to be looking at her while he is doing stuff to her.

xxii. 28:00 - "I really wanna come down there, pick you up, and take you to a good spot."

xxiii. 29:42 - "Would you wanna try getting on top while in the car too?" (MONAHAN: I just don't know what I'd do on top.) "Well, I mean, you kinda you know like grind and bounce on top of it."

xxiv. 31:15 - "Are you gonna wanna use your mouth, too?" (MONAHAN: Is it big?) "Yeah, it's a good size, I guess. Yea, I would love for you to do that too."

xxv. 32:08 - (MONAHAN: What will you do to me.) "I'd kiss on you, lick you, play with you to get you ready."

xxvi. 32:55 - "We'll both be good and ready when it's time for me to put it in you."

xxvii. 33:50 - "We just got to have you back before your aunt gets home?"

xxviii. 35:00 - You really don't care if I cum inside you? (MONAHAN: Not if you don't get me pregnant.) "If you're not on birth control then, I can't like, promise it." (MONAHAN: What if I did get pregnant?) "I don't know, what would we do?" (MONAHAN: I don't know, that's why I'm asking you. Maybe

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CONTROL:26APR23-NEEA-00059-8EMA/T

01MAY23

I can use that pill? The Plan B), "Yeah, that's always something you can do afterwards if you need to."

xxix. 36:09 - (MONAHAN: Is that what you want to do?) "Yeah, we can do that." (MONAHAN: You don't like condoms?) "No, it's not as fun with them." (MONAHAN: You don't have any diseases right?) "No, I don't. No, definitely not."

xxx. 37:05 - "It's either do that, which is good, or I'll have to pull out and make a mess somewhere."

xxxi. 37:45 - (MONAHAN: Where are you gonna put it?) The first time, probably inside of you. There may be some other times where I want to pull out and do it somewhere else.

xxxii. 40:45 - I definitely want to do it with you a lot of times.

xxxiii. 41:00 - S/ALVEY identifies himself as a Senior, "What about you?" (MONAHAN: I'm in eighth grade.)

b. Second call (7APR23 @ 13:46 EDT - 51:21):

i. 2:00 - discussion of where to meet. Discuss going to a park. MONAHAN is going to take a bus to the park and meet S/ALVEY there. Plan is to engage in sexual intercourse.

ii. 08:37 - "Hopefully you'll be ok for the rest of our date if my cum is all inside of you." S/ALVEY describes what happens to his cum once its inside of her.

iii. 21:30 - "I'll just be all over you in the car."

iv. 22:22 - "We'll have to find some way for me to do it with you one more time before I take you back home."

v. 23:50 - "There will be lots of kissing and touching to warm you up."

vi. 24:45 - "I can spend all Easter inside of you."

vii. 25:27 - "Are you going to want me to cum inside of you each time or what?"

viii. 26:15 - (MONAHAN: Are you going to bring plan B?) "Uh yea, I'll try to get it here, if not we'll have to get it before I take you home."

ix. 31:25: - "You're fun, sweet pretty girl, that likes to do it and lets me

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CONTROL: 26APR23-NEEA-00059-8EMA/T

01MAY23

cum wherever I want. That sounds pretty good to me. We'll see how crowded the movie theater is, but I'm definitely probably going to be touching on you."

x. 36:23 - "I definitely would love to be laying in bed, touching all over you in that. "No bra with your tanktop?" (MONAHAN: No.) "Ah nice, even better then, I'd definitely be touching and playing with them."

xi. 37:50 - "I'd pull you pants off and get on top of you or behind you." (MONAHAN: Then what?) "I'd get behind you and then push my hard cock inside of you." (MONAHAN: You gotta be gentle.) "I'll go easy. I'll put it in easy." (MONAHAN: Just at first in case it hurts.) "Yea, I understand. I'll keep going like that with you."

xii. 39:10 - "I'm about to come over and do it with you in your bed."

xiii. 39:54 - "In the bathroom I could sit down and have you get on top of me."

xiv. 41:24 - "Well I would love to be there, touching on you, and putting it inside of you."

xv. 41:55 - "You got me excited too. I really, really would love to be there with you right now."

xvi. 43:27 - "I think after we meet and do it that first time, we'll be feeling a lot less nervous."

xvii. 46:40 - "On days when I'm free I can pick you up from school, take you home, hang out with you in your room. We'd be doing it a lot."

xviii. 48:15 - "That probably be good. Yea cuz if not, at some point you might end up pregnant if I'm doing it with you that much."

xix. 50:35 - "I think taking a nap after doing it is a great idea. Wait there, make sure you're naked, and I'm going to show up and get on top of you, okay?"

ENCLOSURE(S)

- (A) SIGNED NCIS REQUEST TO OBTAIN NON-DOD RECORDS/26APR23
- (B) OPTICAL DISK CONTAINING WORKING COPY OF EVIDENCE PROVIDED BY RCD AO/26APR23
- (C) TABLE OF SELECTED TEXT MESSAGES BETWEEN MONAHAN AND S/ALVEY/04APR23 - 11APR23
- (D) NCIS PHOTOGRAPHIC TEMPLATE OF PICTURES S/ALVEY SENT MONAHAN/04APR23

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

CONTROL: 26APR23-NEEA-00059-8EMA/T

01MAY23

REPORTED BY: DOMINIC VALERINO, Special Agent
OFFICE: RESIDENT AGENCY EARLE

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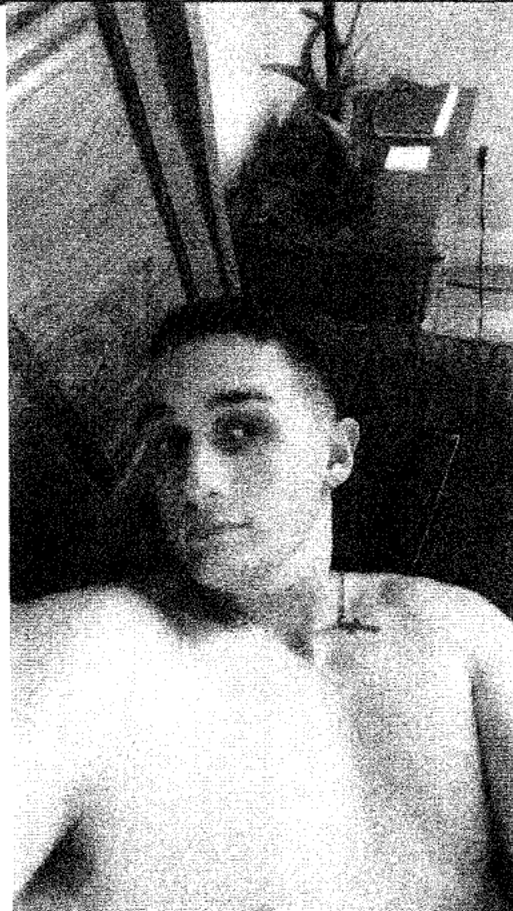
CUI

TABLE OF SELECTED TEXT MESSAGES BETWEEN MONAHAN AND S/ALVEY/04APR23 – 11APR23

2023/04/04	05:05:47 PM EDT	443-307-1291	SMS	S/ALVEY	Of course :) I'll be all over you in the movies
2023/04/04	05:08:33 PM EDT	443-307-1291	SMS	MONAHAN	I can't waitttt u still wanna
2023/04/04	05:08:47 PM EDT	443-307-1291	SMS	S/ALVEY	Yesss absolutely
2023/04/04	05:10:12 PM EDT	443-307-1291	SMS	S/ALVEY	I really want a date
2023/04/05	09:40:57 AM EDT	443-307-1291	SMS	MONAHAN	i wont get preggo righ
2023/04/05	09:41:36 AM EDT	443-307-1291	SMS	S/ALVEY	Haha you make me naughty too cutie ;)
2023/04/05	09:41:58 AM EDT	443-307-1291	SMS	S/ALVEY	And no, only if I finish inside you and you aren't on bc
2023/04/05	09:42:11 AM EDT	443-307-1291	SMS	S/ALVEY	But even then you might not
2023/04/05	09:42:30 AM EDT	443-307-1291	SMS	MONAHAN	oooo ok im not on bc
2023/04/05	09:43:26 AM EDT	443-307-1291	SMS	S/ALVEY	OK, we will have to try and pull out then and cum somewhere else
2023/04/05	09:47:35 AM EDT	443-307-1291	SMS	S/ALVEY	Lol up to you, I like to cum inside, depends where you want a mess on you
2023/04/05	09:47:57 AM EDT	443-307-1291	SMS	MONAHAN	i meannnn if i wont get pregoo u can go inside
2023/04/05	09:48:16 AM EDT	443-307-1291	SMS	S/ALVEY	Really?
2023/04/05	09:48:32 AM EDT	443-307-1291	SMS	MONAHAN	yaaaa?? lol
2023/04/05	10:15:47 AM EDT	443-307-1291	SMS	S/ALVEY	Good baby. I will want it bad
2023/04/05	10:15:59 AM EDT	443-307-1291	SMS	MONAHAN	howwww bad 😊
2023/04/05	10:16:26 AM EDT	443-307-1291	SMS	S/ALVEY	Mm I'd be inside you right this second if I was there with you
2023/04/05	10:17:04 AM EDT	443-307-1291	SMS	MONAHAN	mmmm i want it
2023/04/05	10:17:10 AM EDT	443-307-1291	SMS	MONAHAN	how u wanna do it
2023/04/05	10:17:41 AM EDT	443-307-1291	SMS	S/ALVEY	On top, from behind, holding you up
2023/04/05	10:17:49 AM EDT	443-307-1291	SMS	S/ALVEY	How do you want to?
2023/04/05	10:18:04 AM EDT	443-307-1291	SMS	MONAHAN	holding me up!?
2023/04/05	10:18:24 AM EDT	443-307-1291	SMS	MONAHAN	the top sounds niceeee
2023/04/05	10:18:36 AM EDT	443-307-1291	SMS	S/ALVEY	Yeah you seem light enough where I can hold you up, maybe against the wall
2023/04/05	04:18:40 PM EDT	443-307-1291	SMS	S/ALVEY	Lol good, that makes me cum so hard ;)
2023/04/05	04:19:03 PM EDT	443-307-1291	SMS	MONAHAN	doin it from the backk??

2023/04/05	04:19:26 PM EDT	443-307-1291	SMS	S/ALVEY	Yess, definitely
2023/04/05	04:19:59 PM EDT	443-307-1291	SMS	MONAHAN	okkk good we can do that 😊
2023/04/05	04:20:39 PM EDT	443-307-1291	SMS	S/ALVEY	Mm good, we will definitely need some plan B then lol
2023/04/05	04:21:05 PM EDT	443-307-1291	SMS	MONAHAN	u gonna cum inside LOL how do we get it
2023/04/05	04:22:18 PM EDT	443-307-1291	SMS	S/ALVEY	Yeah I don't think I'll be able to not do it
2023/04/05	09:49:46 PM EDT	443-307-1291	SMS	S/ALVEY	I can cover your mouth or put your face in the pillow while we do it
2023/04/05	09:51:57 PM EDT	443-307-1291	SMS	S/ALVEY	And I'll try not too be too loud either :)
2023/04/05	10:01:16 PM EDT	443-307-1291	SMS	MONAHAN	I guess cover my mouth lollll r u loud
2023/04/05	10:06:20 PM EDT	443-307-1291	SMS	S/ALVEY	Lol I can be aa bit when I am really into it :)
2023/04/05	10:11:57 PM EDT	443-307-1291	SMS	MONAHAN	Ooooo ok 😊
2023/04/05	10:12:08 PM EDT	443-307-1291	SMS	MONAHAN	I hope ur into it
2023/04/05	10:13:18 PM EDT	443-307-1291	SMS	S/ALVEY	I definitely think that I will be sexy, very into it
2023/04/05	10:17:33 PM EDT	443-307-1291	SMS	MONAHAN	Awwwww good
2023/04/05	10:17:48 PM EDT	443-307-1291	SMS	MONAHAN	I think I will like too
2023/04/05	10:22:44 PM EDT	443-307-1291	SMS	S/ALVEY	I hope you do so we can keep doing it :)
2023/04/05	10:27:49 PM EDT	443-307-1291	SMS	MONAHAN	I knooooo I'm sure 😊
2023/04/05	10:29:39 PM EDT	443-307-1291	SMS	S/ALVEY	You will see how much I like it by how much I cum lol, I will need to keep it down so your aunt doesn't hear me doing that lol

NAVAL CRIMINAL INVESTIGATIVE SERVICE
PHOTOGRAPH FORM



1. OFFICE CODE: NEEA – NCISRA Earle, NJ		
2. TITLE: S/ALVEY, Douglas James/Capt USMC	3. CCN: 26APR23-NEEA-00059-8EMA	4. AGENT'S NAME: SA Anthony GOLT
5. SUMMARY/DESCRIPTION: Picture of S/ALVEY sent to 13 yo female. Date sent: 4APR23 13:11:53 PDT Date picture taken: 17JAN2015 Picture taken with: Samsung SM-G900A (Samsung Galaxy S5)		6. PHOTOGRAPHER/DATE PHOTO TAKEN S/ALVEY

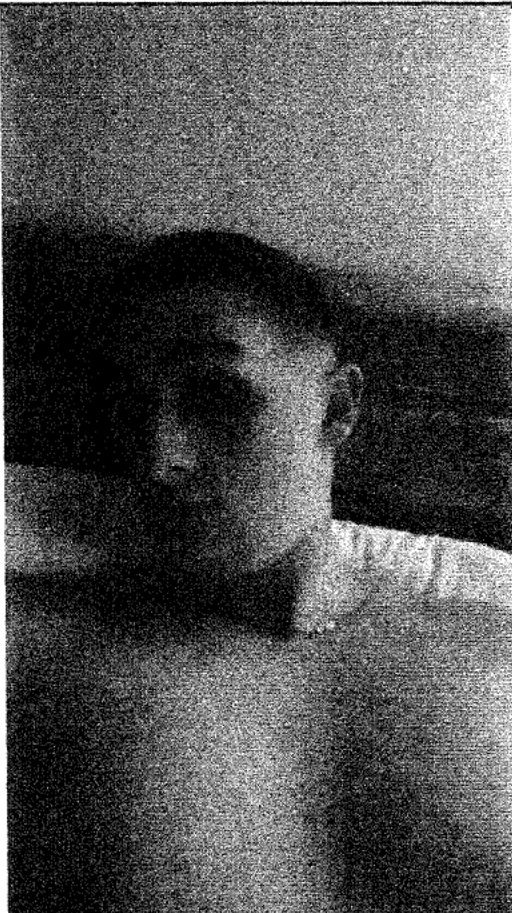
NCIS 5580/91 (Rev 06-2010) PREVIOUS EDITIONS ARE OBSOLETE

PHOTOGRAPH (1) OF (3)

ENCLOSURE (D)

PROSECUTION EXHIBIT 11
PAGE 3 OF 5

NAVAL CRIMINAL INVESTIGATIVE SERVICE
PHOTOGRAPH FORM



1. OFFICE CODE: NEEA – NCISRA Earle, NJ		
2. TITLE: S/ALVEY, Douglas James/Capt USMC	3. CCN: 26APR23-NEEA-00059-8EMA	4. AGENT'S NAME: SA Anthony GOLT
5. SUMMARY/DESCRIPTION: Picture of S/ALVEY sent to 13 yo female. Date sent: 5APR23 7:05:21 PDT Date picture taken: 16JAN2015 Picture taken with: Samsung SM-G900A (Samsung Galaxy S5)		6. PHOTOGRAPHER/DATE PHOTO TAKEN S/ALVEY

NCIS 5580/91 (Rev 06-2010) PREVIOUS EDITIONS ARE OBSOLETE

PHOTOGRAPH (2) OF (3)

ENCLOSURE (D)

PROSECUTION EXHIBIT 4
PAGE 4 OF 5

FILES WITH FILE NAMES MATCHING ATTACHMENT FILE NAMES

	Name: <u>20150117 150312.jpg</u> Size: 681,030 Created: 01/29/2023 17:24:16 -8 Modified: 03/01/2017 16:16:02 -8 Accessed: 01/29/2023 17:15:33 -8 Content created: 01/17/2015 15:03:11 LT Path: \data\media\0\DCIM\Camera MD5: D70BFBBE9FE330BF94A15B3BD1AB40CA
	Name: <u>20150116 185819.jpg</u> Size: 718,758 Created: 01/29/2023 17:24:16 -8 Modified: 03/01/2017 16:16:02 -8 Accessed: 01/29/2023 17:15:33 -8 Content created: 01/16/2015 18:58:19 LT Path: \data\media\0\DCIM\Camera MD5: 36E39CE65FD9163A4E0006A0DD180811
	Name: <u>20150117 181841.jpg</u> Size: 615,642 Created: 01/29/2023 17:24:16 -8 Modified: 03/01/2017 16:16:02 -8 Accessed: 01/29/2023 17:15:33 -8 Content created: 01/17/2015 18:18:41 LT Path: \data\media\0\DCIM\Camera MD5: 4DF474C2C1085B74A18FC0EC9DF8A548

UNCLASSIFIED

Letter of Support for Captain Douglas J. Alvey, USMC

We would request you consider our views of Douglas as you make the determination that will impact the rest of his life, his wife and three small children. First, like to introduce ourselves and background. I am Alan Alvey, his father, I have served the Department of Defense for over 43 years. I am currently a senior division chief in the Defense Intelligence Agency, previously I was an Armor officer in the Army and veteran of Cold War and Desert Storm. His mother, Sandra Alvey, is a retired Army Brigadier General and currently an intelligence officer for the Defense intelligence Agency. BG Alvey was the first preventive medicine officer in the history the United States to achieve flag rank. Her last assignment was deputy commander of the reserve 807th Medical Command, consisting of over 11,000 soldiers or a third of all Army medical strength. As you see, we have both served our country and which had a major impact on Douglas throughout his life.

In our view Douglas of over 33 years, he has always been a positive, supportive, loving family member, a strong supporter to his friends and an exceptional and caring father. We could write pages of all the positives that would outshine any negatives you may hear. But we wish to focus on Doug as we see him as a father and husband and his drive to be the best.

Douglas has been and is the hero to his son and while not his biological son, Douglas has been his true father raising him as his own and setting an outstanding example. Without Douglas, the outcome for him would be much different considering his real father. He has always showed his deep love for his daughters, he has always put them a head of his needs and showed them constant love. As a husband, he has always been there to support Marie to help her overcome the issues of being a foster child, no parents and with limited education chances and of course being there for her son. He worked to help go to college and work for a degree. We should not forget that Doug supported Marie's family by taking in twice her sisters to live him the family. While this caused both financial impact and a lack of privacy, Douglas did the right thing and help those in need.

Douglas has been and even now always tried to achieve beyond expectations. As a boy scout, member of high school sports and of course going to the Virginia Military Institute for the Marines, he overworked to achieve. We also want to note, he gave up going to West Point and an Army ROTC scholarship to become a Marine, since he viewed a Marine Officer as being the hardest and most prestigious role in the military. As you know, Douglas, graduated VMI with a 3.95 average, only one B and the second in his class. This is just an example of trying to go the extra mile. He was to be interviewed by DOD intelligence for a position before these events due to his skills and education.

We do recognize that his support to family and desire to excel at all things likely contributed to this habit of chat rooms as an escape from the pressures. We supported his mental health session when he was assigned to Virginia working with civilians to overcome this. Sadly, during his recent assignment, the command environment was probably not sympathetic of follow-on treatment and the life stresses added to this sad habit. We as family will be there 100% to help Doug overcome this situation and ensure his life and family have a productive life once he returns to the east coast.

We do ask that you consider our words. In our view Douglas made one bad mistake with the police in New York, but we have never heard from his wife, friends or viewed any evidence that Doug did this in the past or would do this again. We ask in this case, forgiveness, if not for him, for his family, which they are so dependent on so they can have a positive future without want.

ALVEY.ALAN.

Digitally signed by

ALVEY.ALAN.L

Date: 2023.10.27 08:59:43

-04'00'

UNCLASSIFIED

Dear Judge,

Ever since I was young, I have always looked up to my big brother. He was always there for us growing up and he always made sure that my brother and I were taken care of when we were left alone, which was quite often. Things were not always easy for my siblings and I and unfortunately a lot of responsibility and pressure fell onto Doug's shoulders. To me, he always appeared strong and capable of anything. However, as I've gotten older, I see that he is a person who has had to deal with a lot of stress from a very young age. Stress and anxiety that he has carried with him ever since. He has always tried to make everyone happy, no matter the pressure or struggle or personal cost he faced. I know he isn't perfect and that he has made many mistakes. I don't want to make excuses for his actions, which I know were wrong. I just want people to see that he is more than his mistakes. He is sweet and generous and cares so much for his friends and family. He is a wonderful, amazing father to Elijah, Elaina, and Elissa and I know he will be an equally wonderful uncle in the future.

Through his actions he has deeply hurt and impacted his family. No one understands this more than Doug. He knows deep down he made a stupid mistake that has filled him with guilt, regret, and sorrow ever since. He knows that it never should have happened and will not ever happen again. Instead, he wants to focus solely on working hard to become a better father and husband. With the support of family and friends, I truly believe that Doug will be able to get the treatment he needs and move forward with his life in a positive and constructive way. I have known Doug my entire life – he is not a bad person. Yes, he has stumbled and struggled, but at the end of the day I know he would never intentionally hurt anyone. He has a good heart and kind soul. Please take these words to heart when considering your decision regarding Doug's future. There are quite a few people who miss him dearly and just want him back home, me included.

Sincerely,

Samantha

Malcolm Capt Katherine E

From: Phillip Stackhouse <stackhouse@militarydefender.com>
Sent: Friday, October 27, 2023 6:38 AM
To: Malcolm Capt Katherine E
Subject: [Non-DoD Source] Fwd: Douglas Alvey Case

----- Forwarded message -----

From: Marie Alvey [REDACTED]
Date: Mon, Oct 23, 2023 at 9:31 PM
Subject: Douglas Alvey Case
To: <stackhouse@militarydefender.com>

Dear judge,

I would like to speak on behalf of my husband Douglas Alvey. I understand that my husband made an unintelligent decision, that will probably impact him the rest of his life. I do know that nobody knows him like I do and I know that the picture painted of him at this very moment is not the best image of what kind of person he truly is; With that being said I would like to start off to say I am not trying to make any excuse for his behavior by any means. He understands that his behavior has caused a great impact on our family. Growing up he didn't have the best of role models in his life to guide him and at a very young an age he had to take on a role that no child should have had to do; Not having an adult to look after him appropriately led him to pick up some bad habits. I know with the support of his family and friends we can get him the help that he needs.

During this time with my husband absence, I have realized he is really the glue to our family that keeps us together and organized. Let's be honest, No family is perfect but what I can say is he's an amazing father figure to our children. I certainly wasn't prepared to have to act as a single mother overnight. Everyday is a different struggle for our family. My son misses his father and constantly wondering when his dad will be back. I don't have all the answers that he wants to hear but I am hoping to have the answers for him soon. My husband has raised him since he was 2 months old. He don't see him as just a stepdad, he see him as his father. He looks up to him and wishes to be just like him when he gets older. In honor of his father being away he has decided he wanted to dress up as a marine for Halloween . Doug has always been a very positive role model for him. As for my daughter his absence has impacted her the most in school and her emotional state at home. She draw's pictures of her dad a lot in school and gets upset because she doesn't quite understand why her dad can't be here with us. As a mother not having all the right answers for my children hurts the most because when they hurt, I hurt. Sadly, my youngest daughter with very little time in the world has not been able to experience how amazing her father is but I'm hoping that changes soon. I know that it probably hurts him as much as it hurts me that he isn't able to be here with us to experience all of her milestones because of his poor choices.

He understands the choices he has made has punished us all. As a family we are ready to put this past us and move forward. Once he is free he will continue to seek treatment and getting the help he needs with the support of myself, his family, and peers to be sure a situation like this will never happen again. He has had a lot of time to self reflect on his actions. I would like for you to know I've always know Doug to have a gentle soul and I know in my heart he will never intentionally hurt anyone. I know that this isn't an easy decision for you but I am hoping to have our family back whole again to heal my little ones broken hearts and to give my husband the proper help he needs. He has an amazing team behind him once he is out. Thank you your honor for taking the time to listen.

Marie Alvey

--

Phil Stackhouse
8910 University Center Drive
Suite 400
San Diego, CA 92122
7602843400 (voice/sms/mms)

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

U N I T E D S T A T E S

v.

DOUGLAS ALVEY
CAPT, USMC

TRIAL MANAGEMENT ORDER

21 SEPT 23

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

- | | |
|---|---------------------------------------|
| a. Arraignment (and appointment of victim's designee, if applicable) | 27 Sept 23 |
| b. Defense request for discovery | 7 Oct 23 ⁱ |
| c. Government disclosure obligations ⁱⁱ | 11 Oct 23 |
| d. Defense reciprocal disclosure obligations ⁱⁱⁱ | 14 Oct 23 |
| e. Defense expert consultant request | 31 Oct 23 |
| f. Defense witness request and Government expected witness list ^{iv} | 31 Oct 23 |
| g. Government response to Defense expert consultant request | 07
11 Nov 23 |
| h. Government response to Defense witness request | 1
11 Nov 23 |
| i. Government notices pursuant to M.R.E. 404(b), 413(b), 414(b) | 7 18 Nov 23 |
| j. Motions filed and notice pursuant to M.R.E. 412 ^v * | 14 27 Nov 23 |
| k. Responses to motions* | 21 Nov 1 Dec 23 |
| l. Article 39(a) | 29 Nov 11 Dec 23 |
| m. Motions filed (second session)* | 3 Jan 24 |
| n. Responses to motions (second session)* | 10 Jan 24 |
| o. Article 39(a) (second session) | 17 Jan 24 |
| p. Written notice of certain defenses ^{vi} | 5 Jan 2 Feb 24 |
| q. Written notice of pleas and forum ^{vii} * | 5 Jan 2 Feb 24 |
| r. Final pretrial matters ^{viii} * | 12 Jan 16 Feb 24 |
| s. Trial Dates at Marine Corps Base Camp Pendleton | 26 Feb to 8 Mar 24
22 Jan to 2 Feb |

2. Timeliness. A party shall seek leave of court to make a notice or filing after the ordered milestone or the written pleading shall include an explanation for good cause. 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 27th day of September, 2023.


M.W. HARRIS *M. C. Harris*
~~Lieutenant~~ Colonel, USMC
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 Pacific Standard 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} A proper witness request includes a synopsis of expected testimony sufficient to show its relevance and necessity on the merits or that a witness' personal appearance is necessary on sentencing. (R.C.M. 703(c)(2)(B)).

^v Counsel should strive to litigate all ripe motions at the first motions date, including those required for M.R.E. 412, allegations of errors in the Article 32, preferral and referral process, appointment of expert consultants, witness production, and discovery.

^{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 Marlaled on the record.

viii Member questionnaires, requests for judicial notice, voir dire, combined witness list with units, company sized unit, proposed instructions, cleansed charge sheet, findings and sentencing worksheets, and any motions for preadmission of evidence. 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.

NAVY-MARINE CORPS TRIAL JUDICIARY

UNITED STATES

v.

Douglas Alvey
Captain, USMC

)
) CIVILIAN COUNSEL
)
) COURT-MARTIAL NOTICE
) OF APPEARANCE
)

1. I, Phillip Stackhouse, admitted to practice law, currently in good standing before the bar of the highest court of the State(s) of Massachusetts, North Carolina, District of Columbia, Colorado, and Wyoming, and, having appeared as counsel in United States military courts-martial on over 400 occasions during my legal career, military or civilian, hereby enter an appearance as an attorney on behalf of the accused in the above-captioned court-martial to do all that is necessary in connection therewith. I certify that I am not now de-certified or suspended from practice in Navy-Marine Corps courts-martial by the Judge Advocate General of the Navy.

2. I hereby certify that I have obtained a copy and agree to abide by: (1) the Rules for Courts-Martial and the Military Rules of Evidence set forth in the current editions of the Manual Courts-Martial; (2) United States, JAG INSTRUCTION 5803.1 series (Professional Conduct of Attorneys Practicing Under the Supervision of the Judge Advocate General); (3) NAVMARCORTRIJUDIC INSTRUCTION 5813.4, Appendix B (Uniform Rules of Practice Before Navy-Marine Corps Courts-Martial); (4) Local Circuit Court Rules; and, (5) if published, the local District Rules of Practice for the Judicial District within which the above-captioned is currently pending. I further certify and agree to provide, upon request by the Circuit Military Judge or designee, a copy of the professional responsibility rules applicable to the Bar of the State in which I am licensed to practice law.

3. Unless indicated otherwise by the accused, all post-trial matters, including the staff judge advocate's or legal officer's recommendation and the accused's copy of the record of trial, should be served on the detailed trial counsel. For purposes of this trial and all subsequent review matters, notice to and service upon the undersigned may be affected at the address of the detailed trial counsel. Unless otherwise stated, civilian counsel's representation ends upon the court being finally adjourned.

4. I swear or affirm all information on this notice of appearance is true, correct and complete, to the best of my knowledge and belief. Signed this date, Wednesday, September 27, 2023.

Signature

Phillip Stackhouse

Printed full name under which licensed to practice law

**Massachusetts 644057, North Carolina 36088, District of Columbia 993508
Colorado 4-7418, Wyoming 7-5397**

Mailing Address: 8910 University Center Lane, Suite 400 (10-129), La Jolla CA 92122

Voice Telephone Number: 760-284-3400

Facsimile Telephone Number: 760-932-4100

Email Address: stackhouse@militarydefender.com

**U.S. Marine Corps
Western Judicial Circuit
General Court-Martial**

UNITED STATES v. Douglas J. Alvey Captain U.S. Marine Corps	Memorandum of Plea Agreement
--	-------------------------------------

I, Captain Douglas Alvey, 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 my military defense counsel, Captain Katherine E. Malcolm, USMC, and civilian defense counsel Mr. Phillip Stackhouse, 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.

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:

<u>Charge/specification and elements</u>	<u>Plea</u>	<u>Max Punishment Authorized by UCMJ</u>
Charge I (UCMJ Art 80):	GUILTY	
Specification (<i>Attempt – Sexual Abuse of a Child Involving Indecent Communications</i>): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton,	GUILTY	15 years confinement, total forfeitures,

<u>Charge/specification and elements</u>	<u>Plea</u>	<u>Max Punishment Authorized by UCMJ</u>
California, on divers occasions, between on or about 11 January 2023 and on or about 11 April 2023, attempt to commit a lewd act upon a child.		and a dismissal.
Charge II (UCMJ Art 120b):	NOT GUILTY	
Specification (<i>Sexual Abuse of a Child Involving Indecent Exposure</i>): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 1 April 2022 and on or about 4 May 2023, commit a lewd act upon a child.	NOT GUILTY	15 years confinement, total forfeitures, and a dismissal.
Charge III (UCMJ Art 133):	GUILTY	
Specification 1 (<i>Conduct Unbecoming an Officer and a Gentlemen</i>): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 1 April 2022 and on or about 4 May 2023, discuss his sexual desires with persons he believed to be minors who had not attained the age of 16 years, and that under the circumstances, the Accused's conduct was unbecoming an officer and a gentleman.	GUILTY	15 years 1 year confinement, total forfeitures, and a dismissal.
Specification 2 (<i>Conduct Unbecoming an Officer and a Gentlemen</i>): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 1 April 2022 and on or about 4 May 2023, send shirtless photos of himself to persons he believed to be minors who had not attained the age of 16 years, and that under the circumstances, the Accused's conduct was unbecoming an officer and a gentleman.	GUILTY	15 years 1 year confinement, total forfeitures, and a dismissal.

18/20/2023
STA
KEH MDC

18/20/2023
STA
KEH MDC

<u>Charge/specification and elements</u>	<u>Plea</u>	<u>Max Punishment Authorized by UCMJ</u>
Specification 3 (<i>Conduct Unbecoming an Officer and a Gentleman</i>): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 13 July 2022 and on or about 4 May 2023, and while married, converse with indecent language with persons he believed to be prostitutes, and that under the circumstances, the Accused's conduct was unbecoming an officer and a gentleman.	GUILTY	Six months confinement, total forfeitures, and a dismissal.
Specification 4 (<i>Conduct Unbecoming an Officer and a Gentleman</i>): In that Captain Douglas J. Alvey, U.S. Marine Corps, did, at or near Marine Corps Base Camp Pendleton, California, on divers occasions, between on or about 1 April 2022 and on or about 4 May 2023, send pictures of his genitals to persons he believed to be minors who had not attained the age of 16 years, and that under the circumstances, the Accused's conduct was unbecoming an officer and a gentleman.	NOT GUILTY	15 years 1 year confinement, total forfeitures, and a dismissal.
TOTAL AUTHORIZED PUNISHMENT:	30 33	15 years 19 years, six months, dismissal, and total forfeitures

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b. Other applicable specially negotiated provisions for the accused.

- (1) I agree to elect trial and sentencing by military judge alone, and I waive my right to a trial by members.
- (2) Automatic forfeiture of any pay and allowances I am due during my enlistment (in the amount of \$11,812.78 per month) will be deferred and waived provided that I establish and maintain a dependent's allotment in the total amount of the deferred and waived forfeiture amount during the entire period of deferment. I understand that my enlistment currently is projected to not end because I am an indefinite officer. However, if my enlistment ends and if I am in confinement after that date, I will not receive any pay and allowances pursuant to Paragraph 010402, Volume 7A, DoD 7000.14-R, Financial Management Regulations

(series). This agreement constitutes my request for, and the convening authority's approval of, deferment and waiver of automatic forfeitures (in the amount of \$11,812.78 per month) pursuant to Article 58b(a)(1), UCMJ. I understand that the period of waiver may not exceed six (6) months from the date of the Entry of Judgment. The convening authority agrees that the period of waiver will run for six months from the date of the Entry of Judgment.

- (3) The period of deferment will run from the date automatic forfeiture would otherwise become effective under Article 58b(a)(1), UCMJ, until the date the Entry of Judgment on the sentence. The deferred and waived forfeiture shall be paid to Marie A. Alvey, who is my dependent. I must provide proof of this allotment to the convening authority before the Entry of Judgment to defer any adjudged forfeitures under this agreement. I agree to notify the convening authority in writing if the Department of Defense fails to defer or waive the forfeitures.
- (4) 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, within 10 days from the date of the conclusion of my trial, a written request to be placed on appellate leave. I understand that if I am placed into an appellate leave status, I will stop receiving receive pay and allowances even if the convening authority has agreed to defer and waive automatic forfeitures.
- (5) I agree not to request in presentencing, at government expense, the presence of any witness located more than 50 miles from the court-martial location. 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 located more than 50 miles from the court-martial location. 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.
- (6) The government and I agree not to object to relevant service record documents, relevant Naval Criminal Investigative Service evidentiary material, relevant statements offered by the defense in extenuation and mitigation, 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. 1001 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 5 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.

- (7) I agree, and am fully prepared, to go to trial and offer to go to trial no later than 1 October 2023. I understand that this agreement will not be deemed to have been breached if the government is unprepared or the judiciary cannot schedule the trial by that date.
- (8) Should I be ordered to show cause for retention in the U.S. Marine Corps, I agree to waive any show-cause board of inquiry that is based on any act or omission reflected in the charges and specifications on the charge sheet in this court-martial. I understand that any administrative discharge will be characterized in accordance with service regulations, and may be under other than honorable conditions. I fully understand the nature and purpose of a board of inquiry, and the rights that I would have at such a board.
- (9) I specifically agree to waive all motions except those that are non-waivable pursuant to R.C.M. 705(c)(1)(B) or otherwise.
- (10) I agree to waive my right to an Article 32, UCMJ, preliminary hearing. I fully understand the nature and purpose of an Article 32 preliminary hearing and the rights that I would have at such a hearing. I understand that upon acceptance of this agreement, the charges and specifications may be referred to trial by general court-martial without an Article 32 preliminary hearing.
- (11) The government and I agree to enter into the Stipulation of Fact contained in Annex I to this Agreement for use during the providence inquiry and during the presentencing proceeding. I have reviewed the stipulation completely, I agree the facts therein are true and admissible, and I have no objections.

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 charges 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 above. The convening authority agrees that, after the announcement of the sentence by the Military Judge, the withdrawn charges and specifications will be dismissed without prejudice to ripen into prejudice

upon completion of appellate review where the findings and sentence have been upheld.

10. Sentencing Limitations:

The parties agree that the Military Judge may only sentence as follows:

- a. Punitive discharge: A dismissal will be adjudged.
- b. Confinement: The minimum confinement to be adjudged for all offenses is confinement for 6 months, and the maximum confinement to be adjudged for all offenses is a confinement for 9 months. See Table A.
- c. Forfeiture: Forfeitures will not be adjudged.
- d. Fine: Will not be adjudged.
- e. Reduction: Not applicable
- f. Other lawful punishments: Will not be adjudged.

TABLE A

	Confinement				Fines	
	Minimum	Maximum	To be served consecutively with...	To be served concurrently with...	Minimum	Maximum
Charge I						
Specification	6 mo	9 mo	N/A	All other charges and specifications	N/A	N/A
Charge II						
Specification	N/A	N/A	N/A	N/A	N/A	N/A
Charge III						
Specification 1	6 mo	9 mo	N/A	All other charges and specifications	N/A	N/A
Specification 2	6 mo	9 mo	N/A	All other charges and specifications	N/A	N/A
Specification 3	6 mo	9 mo 6	N/A	All other charges and specifications	N/A	N/A
Specification 4	N/A	N/A	N/A	N/A	N/A	N/A
Total that may be adjudged (accounting for consecutive or concurrent sentence)	6 mo	9 mo	N/A	N/A	N/A	N/A

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11. Notification provisions. I have been advised of the following potential consequences of my pleas of guilty and resultant convictions:

- 1) My defense counsel has advised me that, as a result of my pleas, I may be required to register as a sexual offender in any state in which I am domiciled. I have reviewed DoD Instruction 1325.07 (series) with my counsel and understand that I am entering a plea of guilty to an offense requiring sex offender registration processing within the meaning of Appendix 4 to Enclosure 2 of that instruction. Further, my counsel has advised me that, in accordance with 42 U.S.C. § 14071(d), my information in the offender registry may be accessible by the public.
- 2) 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).
- 3) 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 U.S. 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 U.S. Marine Corps precludes me from fulfilling any additional service requirements that were required as consideration for this advanced educational assistance.
- 4) 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.
- 5) I have been fully advised by my defense counsel of, and I fully understand and comprehend the meaning and effect of, my guilty pleas and all attendant effects and consequences, including the possibility that I may be processed for administrative discharge from the U.S. Marine Corps. I understand that nothing in this agreement ensures or promises that administrative separation processing will be disapproved for the misconduct underlying the charges at this court-martial. I understand that Deputy Commandant for Manpower and Reserve Affairs, or any other appropriate separation authority may initiate administrative separation processing based on the misconduct underlying this court-martial. I understand that such an administrative discharge could result in an Other Than Honorable characterization of service, unless otherwise limited by this agreement, even if part or all of the sentence, including a punitive discharge, is suspended or disapproved for any reason. I understand that if I am separated with a characterization Other Than Honorable that I may be deprived of veterans' benefits based upon my current period of active service, and that I may therefore expect to encounter substantial prejudice in civilian life in many situations.

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: 9/21/2023

Douglas J. Avey
Captain, USMC

Defense Counsel:

[REDACTED]

Date: 9/21/2023

Mr. Phillip Stackhouse
Civilian Defense Counsel

Defense Counsel:

[REDACTED]

Date: 2023 09 21

Katherine E. Malcolm
Captain, USMC
Military Defense Counsel

The foregoing plea agreement is approved, including the sentence limitation portion of this plea agreement.

Convening Authority:

[REDACTED]

Date: 2023/11/13

Andrew M. Niebel
Brigadier General, USMC
Commanding General, 1st Marine Logistics Group

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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;
- 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.

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.

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.

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 1-202-685-7296 or 1-202-685-7395. 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 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 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.

Katherine E. Malcolm
Captain
U.S. Marine Corps
Detailed Defense Counsel


Douglas J. Alvey
Captain
U.S. Marine Corps
Accused

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:

_____ me. DJA my counsel.

I specifically request that my copy of the victim(s) matters be delivered to:

_____ me. _____ my counsel. DJA Not Applicable.

I specifically request that my copy of the CA's Action be delivered to:

_____ me. DJA my counsel.

I specifically request that my copy of the Entry of Judgment be delivered to:

_____ me. DJA my counsel.

I specifically request that my copy of the certified record of trial be delivered to:

_____ me. DJA my counsel.

Contact information for the accused after the completion of the court-martial:

Name: Douglas Alvey

Address: _____

Phone: 443-307-1291 / 443-819-5169

Email: alvey8312@gmail.com

Katherine E. Malcolm
Captain
U.S. Marine Corps
Detailed Defense Counsel

Douglas J. Alvey
Captain
U.S. Marine Corps
Accused

SPECIAL POWER OF ATTORNEY – APPELLATE PROCESS

I, Captain Douglas J. Alvey, United States Marine Corps, having been convicted at a General Court-Martial on 27 October 2023, 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 I lawfully revoke this power and authority.

IN WITNESS THEREOF, I have hereunto set my hand this ^{27th} ~~25th~~ day of October 2023.


Douglas J. Alvey
Captain
U.S. Marine Corps

Signed and delivered in the presence of:


Katherine E. Malcolm
Captain
U.S. Marine Corps

Walsh LtCol Aran T

From: Walsh LtCol Aran T
Sent: Monday, October 23, 2023 12:49 PM
To: Hur LtCol Christian P; 'Phillip Stackhouse'; Malcolm Capt Katherine E; Sommer Capt Thomas J
Cc: Taylor Agent Frederick K; Reiser SSgt Sebastian G; Young CIV Brian D; Crane Maj Adam J; Taylor GySgt Sophia D; Wesleymoses Cpl Tyler J; Aguilar-Pack Cpl Liliana R
Subject: RE: [Non-DoD Source] Re: US v. Capt Alvey plea agreement signed
Signed By: aran.walsh@usmc.mil

Good Afternoon LtCol Hur,

Thank you for the update. No additional concerns on my end. I'll see you all on Friday.

R/s

LtCol Aran T. Walsh, USMC
Military Judge
Western Judicial Circuit
Navy-Marine Corps Trial Judiciary
Office: (760) 725-6257

From: Hur LtCol Christian P <christian.hur@usmc.mil>
Sent: Friday, October 20, 2023 1:49 PM
To: Walsh LtCol Aran T <aran.walsh@usmc.mil>; 'Phillip Stackhouse' <stackhouse@militarydefender.com>; Malcolm Capt Katherine E <katherine.malcolm@usmc.mil>; Sommer Capt Thomas J <thomas.sommer@usmc.mil>
Cc: Taylor Agent Frederick K <frederick.k.taylor@usmc.mil>; Reiser SSgt Sebastian G <sebastian.reiser@usmc.mil>; Young CIV Brian D <brian.young@usmc.mil>; Crane Maj Adam J <adam.j.crane@usmc.mil>; Taylor GySgt Sophia D <sophia.taylor@usmc.mil>; Wesleymoses Cpl Tyler J <tyler.wesleymoses@usmc.mil>; Aguilar-Pack Cpl Liliana R <liliana.aguilarpack@usmc.mil>
Subject: Re: [Non-DoD Source] Re: US v. Capt Alvey plea agreement signed

Your Honor,

Mr. Stackhouse, who is boarding a plane from Guam back to CONUS right now, just confirmed to me via text that we can make the Court's recommended pen changes to the plea agreement. I will do so.

Please let us know if there are any other changes needed.

VR,

Christian P. Hur
Lieutenant Colonel, U.S. Marine Corps
Regional Special Trial Counsel
Office of Special Trial Counsel - West
Rm 112, Bldg 22185, 22 Area
MCB CAMPEN, CA 92055
Email: Christian.hur@usmc.mil
Telephone: 760-763-4948
Mobile: [REDACTED]

From: Walsh LtCol Aran T
Sent: Thursday, October 19, 2023 9:54 AM
To: Hur LtCol Christian P; 'Phillip Stackhouse'; Malcolm Capt Katherine E; Sommer Capt Thomas J
Cc: Taylor Agent Frederick K; Reiser SSgt Sebastian G; Young CIV Brian D; Crane Maj Adam J; Taylor GySgt Sophia D; Wesleymoses Cpl Tyler J; Aguilar-Pack Cpl Liliana R
Subject: RE: [Non-DoD Source] Re: US v. Capt Alvey plea agreement signed

Good Morning LtCol Hur,

Thank you. Assuming the Defense agrees, the below changes to the plea will resolve the issue.

Respectfully,

LtCol Aran T. Walsh, USMC

Military Judge

Western Judicial Circuit

Navy-Marine Corps Trial Judiciary

Office: (760) 725-6257

From: Hur LtCol Christian P <christian.hur@usmc.mil>
Sent: Wednesday, October 18, 2023 5:35 PM
To: Walsh LtCol Aran T <aran.walsh@usmc.mil>; 'Phillip Stackhouse' <stackhouse@militarydefender.com>; Malcolm Capt Katherine E <katherine.malcolm@usmc.mil>; Sommer Capt Thomas J <thomas.sommer@usmc.mil>
Cc: Taylor Agent Frederick K <frederick.k.taylor@usmc.mil>; Reiser SSgt Sebastian G <sebastian.reiser@usmc.mil>; Young CIV Brian D <brian.young@usmc.mil>; Crane Maj Adam J <adam.j.crane@usmc.mil>; Taylor GySgt Sophia D <sophia.taylor@usmc.mil>; Wesleymoses Cpl Tyler J <tyler.wesleymoses@usmc.mil>; Aguilar-Pack Cpl Liliana R <liliana.aguilarpack@usmc.mil>
Subject: Re: [Non-DoD Source] Re: US v. Capt Alvey plea agreement signed

Your Honor,

I'm available for an RCM 802 if needed.

If the Court and Defense Counsel concur, and for purposes of this plea agreement (not if the case were to go contested), I propose pen changes as follows:

1. On PA, pp. 3 and 4, under the Charge III specifications 1, 2, and 4, I will change "15 years" to "1 year."
2. On PA, p. 4, I will change total authorized punishment from "75 years, six months" to "18 years, six months."
3. On PA, p. 7, Table A, for Charge III, Spec 3, I will change the maximum from "9 mo" to "6 mo."

Assuming Defense Counsel concurs with these changes, would you please let me know if this satisfies the Court? Thank you.

VR,

Christian P. Hur
Lieutenant Colonel, U.S. Marine Corps
Regional Special Trial Counsel
Office of Special Trial Counsel - West
Rm 112, Bldg 22185, 22 Area
MCB CAMPEN, CA 92055
Email: Christian.hur@usmc.mil
Telephone: 760-763-4948
Mobile: [REDACTED]

From: Walsh LtCol Aran T

Sent: Wednesday, October 18, 2023 5:13 PM

To: Hur LtCol Christian P; 'Phillip Stackhouse'; Malcolm Capt Katherine E; Sommer Capt Thomas J

Cc: Taylor Agent Frederick K; Reiser SSgt Sebastian G; Young CIV Brian D; Crane Maj Adam J; Taylor GySgt Sophia D; Wesley Moses Cpl Tyler J; Aguilar-Pack Cpl Liliana R

Subject: RE: [Non-DoD Source] Re: US v. Capt Alvey plea agreement signed

Good Afternoon,

We may need to have an 802 to discuss the maximum punishments authorized for specifications 1, 2, and 4 of Charge III, as listed in Table 8a of the plea agreement.

As drafted, these Art 133 specifications may not incorporate the language and elements of Art 120b adequately to authorize a maximum punishment of 15 years confinement. Specifically, the element of the child's age and the term "lewd act" along with the associated intent element is omitted. Moreover, if the analogous offense is Art 80 (Attempted 120b) then the attempt element is omitted. I'd ask that the parties review the case of *United States v. McGuire*, No. NMCCA 201000611, 2012 CCA LEXIS 28, at *25-27 (N-M Ct. Crim. App. Jan. 31, 2012), finding in part,

"Because the Government did not incorporate the language or elements of abusive sexual contact for the Article 133 specification, we do not find the two offenses analogous. Accordingly, the maximum sentence authorized for the specification is the statutory limit under Article 133: confinement for one year, total forfeiture of pay and allowances, and

a dismissal. The miscalculation by the military judge significantly increased the appellant's punitive exposure. Although the appellant did not object at trial, we find that this miscalculation was plain or obvious, materially prejudiced a substantial right, and thus was plain error. We will take corrective action by reassessing the sentence below." (Partial negative treatment based on other grounds.)

While specification 3 of Charge III may have the same issue, it does not increase the punitive exposure of the Accused, so I'm less concerned about the Accused being improperly induced based on a potentially incorrect max punishment. Though we still need to get it correct. Please note that Table A of the plea agreement also directs the Court to sentence the Accused to 6 to 9 months of confinement for Specification 3, but paragraph 8.a. lists the max as 6 months. That will also need to be changed or taken up on the record.

This Court needs to ensure that (1) the maximum authorized punishment is correct, and (2) that Captain Alvey correctly understood the maximum punishment when he entered into the plea. If the parties read the case above and concur with the Courts read, then pen changes to the plea to reflect the max confinement of 1 year for those charges would moot this issue. If either side disagrees and believes 15 years is the correct max, then we'll need an 802 and likely need to brief the issue on the record.

I'll be at MCAS Yuma for a guilty plea tomorrow and Friday, but I have availability early next week. Please consult with each other and either advise the Court as to any potential changes to the plea agreement or as to the parties availability for an 802.

Respectfully,

LtCol Aran T. Walsh, USMC
Military Judge
Western Judicial Circuit
Navy-Marine Corps Trial Judiciary
Office: (760) 725-6257

From: Hur LtCol Christian P <christian.hur@usmc.mil>

Sent: Tuesday, October 17, 2023 4:14 PM

To: Walsh LtCol Aran T <aran.walsh@usmc.mil>

Cc: 'Phillip Stackhouse' <stackhouse@militarydefender.com>; Malcolm Capt Katherine E <katherine.malcolm@usmc.mil>; Sommer Capt Thomas J <thomas.sommer@usmc.mil>; Taylor Agent Frederick K <frederick.k.taylor@usmc.mil>; Reiser SSgt Sebastian G <sebastian.reiser@usmc.mil>; Young CIV Brian D <brian.young@usmc.mil>; Crane Maj Adam J <adam.j.crane@usmc.mil>; Taylor GySgt Sophia D <sophia.taylor@usmc.mil>; Wesleymoses Cpl Tyler J <tyler.wesleymoses@usmc.mil>; Harris LtCol Matthew M <matthew.m.harris@usmc.mil>; Aguilar-Pack Cpl Liliana R <liliana.aguilarpack@usmc.mil>; Western Pacific Judiciary Circuit <WesternPacificJudiciarycircuit@usmc.mil>

Subject: Re: [Non-DoD Source] Re: US v. Capt Alvey plea agreement signed

Also, Your Honor, I have just handed a printout version of the 30a proceedings to the court reporter and we will ensure they are part of the record. They are also now on the Court's sharepoint site saved under allied papers.

VR,

Christian P. Hur
Lieutenant Colonel, U.S. Marine Corps
Regional Special Trial Counsel
Office of Special Trial Counsel - West
Rm 112, Bldg 22185, 22 Area
MCB CAMPEN, CA 92055
Email: Christian.hur@usmc.mil
Telephone: 760-763-4948

Mobile: [REDACTED]

From: Hur LtCol Christian P <christian.hur@usmc.mil>

Sent: Tuesday, October 17, 2023 3:44 PM

To: Walsh LtCol Aran T <aran.walsh@usmc.mil>

Cc: 'Phillip Stackhouse' <stackhouse@militarydefender.com>; Malcolm Capt Katherine E <katherine.malcolm@usmc.mil>; Sommer Capt Thomas J <thomas.sommer@usmc.mil>; Taylor Agent Frederick K <frederick.k.taylor@usmc.mil>; Reiser SSgt Sebastian G <sebastian.reiser@usmc.mil>; Young CIV Brian D <brian.young@usmc.mil>; Crane Maj Adam J <adam.j.crane@usmc.mil>; Taylor GySgt Sophia D <sophia.taylor@usmc.mil>; Wesley Moses Cpl Tyler J <tyler.wesleymoses@usmc.mil>; Harris LtCol Matthew M <matthew.m.harris@usmc.mil>; Aguilar-Pack Cpl Liliana R <liliana.aguilarpack@usmc.mil>; Western Pacific Judiciary Circuit <WesternPacificJudiciaryCircuit@usmc.mil>

Subject: Re: [Non-DoD Source] Re: US v. Capt Alvey plea agreement signed

Yes, Your Honor.

The 30a matters are here and they will shortly be uploaded to the Court's website and also be given today to the Court Reporter for insertion into the record of trial.

30a Matters

Also, I have checked my records and I have confirmed that the CG signed the plea agreement on 13 October 2023. I will make a pen change to the plea agreement that is made part of the record of trial.

VR,

Christian P. Hur
Lieutenant Colonel, U.S. Marine Corps
Regional Special Trial Counsel
Office of Special Trial Counsel - West
Rm 112, Bldg 22185, 22 Area
MCB CAMPEN, CA 92055
Email: Christian.hur@usmc.mil
Telephone: 760-763-4948
Mobile: [REDACTED]

From: Walsh LtCol Aran T

Sent: Tuesday, October 17, 2023 2:49 PM

To: Hur LtCol Christian P

Cc: 'Phillip Stackhouse'; Malcolm Capt Katherine E; Sommer Capt Thomas J; Taylor Agent Frederick K; Reiser SSgt Sebastian G; Young CIV Brian D; Crane Maj Adam J; Taylor GySgt Sophia D; Wesley Moses Cpl Tyler J; Harris LtCol Matthew M; Aguilar-Pack Cpl Liliana R; Western Pacific Judiciary Circuit

Subject: RE: [Non-DoD Source] Re: US v. Capt Alvey plea agreement signed

Good Afternoon LtCol Hur,

Per the below, I'll be presiding over the case of US v. Alvey. There are a couple issues that will need to be cleared up before the guilty plea on the 27th.

The first issue is that it appears the convening authority dated his acceptance of the plea agreement as occurring on "20231113." This is obviously a scrivener's error, but please consult with him and correct the date on the signature page before the guilty plea.

The next issue is that at the arraignment the Government certified that there were 30a proceedings in this case, which were to be entered into the record as allied papers. I've reviewed the record and I'm not seeing those. Please provide the court reporters with the 30a proceedings before the guilty plea and let me know once that's been completed.

Respectfully Sent,

LtCol Aran T. Walsh, USMC
Military Judge
Western Judicial Circuit
Navy-Marine Corps Trial Judiciary
Office: (760) 725-6257

From: Harris LtCol Matthew M <matthew.m.harris@usmc.mil>

Sent: Tuesday, October 17, 2023 1:55 PM

To: Hur LtCol Christian P <christian.hur@usmc.mil>; Aguilar-Pack Cpl Liliana R <liliana.aguilarpack@usmc.mil>; Western Pacific Judiciary Circuit <WesternPacificJudiciarycircuit@usmc.mil>; Walsh LtCol Aran T <aran.walsh@usmc.mil>

Cc: 'Phillip Stackhouse' <stackhouse@militarydefender.com>; Malcolm Capt Katherine E <katherine.malcolm@usmc.mil>; Sommer Capt Thomas J <thomas.sommer@usmc.mil>; Taylor Agent Frederick K <frederick.k.taylor@usmc.mil>; Reiser SSgt Sebastian G <sebastian.reiser@usmc.mil>; Young CIV Brian D <brian.young@usmc.mil>; Crane Maj Adam J <adam.j.crane@usmc.mil>; Taylor GySgt Sophia D <sophia.taylor@usmc.mil>; Wesley Moses Cpl Tyler J <tyler.wesleymoses@usmc.mil>

Subject: RE: [Non-DoD Source] Re: US v. Capt Alvey plea agreement signed

Including LtCol Walsh.

From: Harris LtCol Matthew M

Sent: Tuesday, October 17, 2023 9:05 AM

To: Hur LtCol Christian P <christian.hur@usmc.mil>; Aguilar-Pack Cpl Liliana R <liliana.aguilarpack@usmc.mil>; Western Pacific Judiciary Circuit <WesternPacificJudiciarycircuit@usmc.mil>

Cc: 'Phillip Stackhouse' <stackhouse@militarydefender.com>; Malcolm Capt Katherine E <katherine.malcolm@usmc.mil>; Sommer Capt Thomas J <thomas.sommer@usmc.mil>; Taylor Agent Frederick K <frederick.k.taylor@usmc.mil>; Reiser SSgt Sebastian G <sebastian.reiser@usmc.mil>; Young CIV Brian D <brian.young@usmc.mil>; Crane Maj Adam J <adam.j.crane@usmc.mil>; Taylor GySgt Sophia D <sophia.taylor@usmc.mil>; Wesley Moses Cpl Tyler J <tyler.wesleymoses@usmc.mil>

Subject: RE: [Non-DoD Source] Re: US v. Capt Alvey plea agreement signed

Good morning LtCol Hur,

Your request is granted. The guilty plea hearing is docketed for 0900 in the JBM on 27 October 2023. LtCol Walsh will be the judge.

V/r,

Matt Harris
Lieutenant Colonel, U.S. Marine Corps
Military Judge
Western Judicial Circuit, NMCTJ
matthew.m.harris@usmc.mil
Office: (760) 725-6284

From: Hur LtCol Christian P <christian.hur@usmc.mil>

Sent: Monday, October 16, 2023 3:56 PM

To: Harris LtCol Matthew M <matthew.m.harris@usmc.mil>; Aguilar-Pack Cpl Liliana R <liliana.aguilarpack@usmc.mil>; Western Pacific Judiciary Circuit <WesternPacificJudiciarycircuit@usmc.mil>

Cc: 'Phillip Stackhouse' <stackhouse@militarydefender.com>; Malcolm Capt Katherine E <katherine.malcolm@usmc.mil>; Sommer Capt Thomas J <thomas.sommer@usmc.mil>; Taylor Agent Frederick K <frederick.k.taylor@usmc.mil>; Reiser SSgt Sebastian G <sebastian.reiser@usmc.mil>; Young CIV Brian D <brian.young@usmc.mil>; Crane Maj Adam J <adam.j.crane@usmc.mil>

Subject: Fw: [Non-DoD Source] Re: US v. Capt Alvey plea agreement signed

Your Honor,

Good afternoon. We have a signed plea agreement and Stipulation of Fact in the subject case. Please see attached.

May we do a docketing request to docket the guilty dive for 27 October 2023, at 0900 in the JBM Court room? Defense Counsel, per the below, appear to be available. I estimate a 0900 to 1300 hearing will be sufficient to accomplish the dive.

Charge Sheet, Convening Order, and allied papers have been previously filed with the Court.
Thank you.

VR,

Christian P. Hur
Lieutenant Colonel, U.S. Marine Corps
Regional Special Trial Counsel
Office of Special Trial Counsel - West
Rm 112, Bldg 22185, 22 Area
MCB CAMPEN, CA 92055
Email: Christian.hur@usmc.mil
Telephone: 760-763-4948
Mobile: [REDACTED]

From: Malcolm Capt Katherine E <katherine.malcolm@usmc.mil>

Sent: Monday, October 16, 2023 3:08 PM

To: Hur LtCol Christian P <christian.hur@usmc.mil>; Phillip Stackhouse <stackhouse@militarydefender.com>

Cc: Young CIV Brian D <brian.young@usmc.mil>; Reiser SSgt Sebastian G <sebastian.reiser@usmc.mil>; Crane Maj Adam J <adam.j.crane@usmc.mil>; Schweig LtCol Jesse P <jesse.schweig@usmc.mil>; Sommer Capt Thomas J <thomas.sommer@usmc.mil>

Subject: RE: [Non-DoD Source] Re: US v. Capt Alvey plea agreement signed

Good afternoon sir:

I am available for 27 October. I can't speak for Mr. Stackhouse, but I believe he's available that day as well from previous

correspondence.

Very Respectfully,

Kate Malcolm

Captain, USMC

Defense Counsel

MCB – Camp Pendleton, CA

Office: (760) 725-3547

Cell: [REDACTED]

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PII must be sent and received via encrypted email.

From: Hur LtCol Christian P <christian.hur@usmc.mil>
Sent: Monday, October 16, 2023 2:24 PM
To: Phillip Stackhouse <stackhouse@militarydefender.com>
Cc: Malcolm Capt Katherine E <katherine.malcolm@usmc.mil>; Young CIV Brian D <brian.young@usmc.mil>; Reiser SSgt Sebastian G <sebastian.reiser@usmc.mil>; Crane Maj Adam J <adam.j.crane@usmc.mil>; Schweig LtCol Jesse P <jesse.schweig@usmc.mil>; Sommer Capt Thomas J <thomas.sommer@usmc.mil>
Subject: Re: [Non-DoD Source] Re: US v. Capt Alvey plea agreement signed

Phil and Kate,

Good afternoon. May I inform the Court of the signed PA and SOF, and ask for 27 Oct in JBM starting at 0900?

VR,

Christian P. Hur

Lieutenant Colonel, U.S. Marine Corps

Regional Special Trial Counsel

Office of Special Trial Counsel - West

Rm 112, Bldg 22185, 22 Area

MCB CAMPEN, CA 92055

Email: Christian.hur@usmc.mil

Telephone: 760-763-4948

Mobile: [REDACTED]

From: Phillip Stackhouse <stackhouse@militarydefender.com>
Sent: Friday, October 13, 2023 4:14 PM
To: Hur LtCol Christian P <christian.hur@usmc.mil>
Cc: Malcolm Capt Katherine E <katherine.malcolm@usmc.mil>; Young CIV Brian D <brian.young@usmc.mil>; Reiser SSgt Sebastian G <sebastian.reiser@usmc.mil>; Crane Maj Adam J <adam.j.crane@usmc.mil>; Schweig LtCol Jesse P <jesse.schweig@usmc.mil>; Sommer Capt Thomas J <thomas.sommer@usmc.mil>

Subject: [Non-DoD Source] Re: US v. Capt Alvey plea agreement signed

I'm in trial till the week after next. I get back from Guam on 10/21. I can do it that week next week. I'll have to coordinate with Kate on her availability.

Phil

Phillip Stackhouse

stackhouse@militarydefender.com

760-284-3400

MilitaryDefender

Stackhouse Law Firm, Ltd (Colorado)

8910 University Center Lane, Suite 400

La Jolla, CA 92122

On Fri, Oct 13, 2023 at 3:47 PM Hur LtCol Christian P <christian.hur@usmc.mil> wrote:

Please find the plea agreement signed by the CG attached.

When is the earliest we can do the guilty plea for Capt Alvey? 17 and 18 Oct are wide open on the court calendar.

VR,

Christian P. Hur

Lieutenant Colonel, U.S. Marine Corps

Regional Special Trial Counsel

Office of Special Trial Counsel - West

Rm 112, Bldg 22185, 22 Area

MCB CAMPEN, CA 92055

Email: Christian.hur@usmc.mil

Telephone: 760-763-4948

Mobile: [REDACTED]

From: Hur LtCol Christian P

Sent: Friday, October 13, 2023 10:23 AM

To: 'Phillip Stackhouse' <stackhouse@militarydefender.com>; Malcolm Capt Katherine E
<katherine.malcolm@usmc.mil>

Cc: Young CIV Brian D <brian.young@usmc.mil>; Reiser SSgt Sebastian G <sebastian.reiser@usmc.mil>; Crane Maj
Adam J <adam.j.crane@usmc.mil>; Schweig LtCol Jesse P <jesse.schweig@usmc.mil>; Sommer Capt Thomas J
<thomas.sommer@usmc.mil>

Subject: US v. Capt Alvey plea agreement signed

FYI, Lady and Gentlemen. See SJA message below indicating the plea agreement has been signed by the CG. I'll let the judiciary know (and share the documents with ALCON cc'd) as soon as I have the plea agreement in hand, and we will schedule the guilty trial.

Would defense counsel please inform us of Capt Alvey's preferred guilty trial date? The TMO says 29 Nov is the next court appearance. I recommend we do the hearing on any week day next week or the week after.

VR,

Christian P. Hur

Lieutenant Colonel, U.S. Marine Corps

Regional Special Trial Counsel

Office of Special Trial Counsel - West

Rm 112, Bldg 22185, 22 Area

MCB CAMPEN, CA 92055

Email: Christian.hur@usmc.mil

Telephone: 760-763-4948

Mobile: [REDACTED]

From: Shew LtCol Wayne in Teams <noreply@dod-email.teams.microsoft.com>
Sent: Friday, October 13, 2023 9:54 AM
To: Hur LtCol Christian P <christian.hur@usmc.mil>
Subject: Shew sent a message

Chris, Alvey referred to a GCM and Plea Agreement signed. Will send documents later today.

Hi,

Your teammates are trying to reach you in Microsoft Teams.

Shew sent a message in chat

Install Microsoft Teams now

This email was sent from an unmonitored mailbox. Update your email preferences in Teams. Activity > Settings (Gear Icon) > Notifications.

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