

DEPARTMENT OF THE ARMY REPORT OF RESULTS OF TRIAL

For use of this form, see AR 27-10; the proponent agency is TJAG

TO: Commander  
B Battery, 4<sup>th</sup> Battalion, 1<sup>st</sup> Armored Division  
Baghdad, Iraq APO AE 09324

1. Notification under R.C.M. 1101 and AR 27-10, paragraph 5-26 is hereby given in the case of the United States v. McKENZIE, John C.

SSG. B BTRY., 4<sup>th</sup> BN, 1<sup>st</sup> FA, 3<sup>rd</sup> BDE, 1<sup>st</sup> AD

2. Trial by general court-martial on 8 Dec 03 at Baghdad, Iraq

convened by CMCO Number 5 HQ, 1st Armored Division, APO AE 09324.

3. Summary of offenses, pleas, and findings:

CH	ART UCMJ	SPEC	BRIEF DESCRIPTION OF OFFENSE(S)	PLEA	FINDING
THE	128	THE	Assault with a loaded firearm	Not Guilty	Not Guilty

4. SENTENCE: None.

5. Date sentence adjudged: None.

6. Contents of pretrial agreement concerning sentence, if any: None.

7. Number of days of presentence confinement, if any: None.

8. Number of days of judge-ordered administrative credit for illegal presentence confinement or restriction found tantamount to confinement, if any: None

9. Total present confinement credit towards post-trial confinement: None.

10. Name(s) and SSN(s) of companion accused or co-accused, if any: None.

CF: Commander  
4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery  
Baghdad, Iraq APO AE 09324

SJA  
1st Armored Division  
Baghdad, Iraq APO AE 09324

TYPED NAME

SIGNATURE

RANK

BRANCH OF SERVICE

CPT

JA

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, Middle Initial) McKenzie, John C.		2. SSN	3. GRADE OR RANK SSG	4. PAY GRADE E6
5. UNIT OR ORGANIZATION Bravo Battery, 4 <sup>th</sup> Battalion, 1 <sup>st</sup> Field Artillery Baghdad, Iraq APO AE 09324			6. CURRENT SERVICE	
			a. INITIAL DATE 20001208	b. TERM 6 years
7. PAY PER MONTH		8. NATURE OF RESTRAINT OF ACCUSED		9. DATE(S) IMPOSED
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL		
\$2,400.90	None	\$2,400.90	None.	

II. CHARGES AND SPECIFICATIONS

10. CHARGE I: VIOLATION OF THE UCMJ, ARTICLE 93.

THE SPECIFICATION: In that Staff Sergeant (E6) John C. McKenzie, U.S. Army, at or near Baghdad, Iraq, on or about 21 June 2003, was cruel toward [redacted] a person subject to his orders, by laughing at [redacted] after he was assaulted by Private First Class [redacted] and saying to [redacted] "What happened, did you fall and break your nose?", or words to that effect.

*operable firearm*  
*offering an*  
*while other army soldiers*  
*guarded*

CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 128.

THE SPECIFICATION: In that Staff Sergeant (E6) John C. McKenzie, U.S. Army, did at or near Baghdad, Iraq, on or about 21 June 2003, commit an assault upon [redacted] by pointing at him with a dangerous weapon likely to produce death or grievous bodily harm, to wit: a loaded firearm.

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, Middle Initial) [redacted]	b. GRADE MAJ	c. ORGANIZATION OF ACCUSER HHC, 3 <sup>rd</sup> Brigade
d. SIGNATURE OF ACCUSER [redacted]	e. DATE (YYYYMMDD) 20030919	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 19 day of September, 2003, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

[redacted]  
Typed Name of Officer

HHC, 3<sup>rd</sup> Bde, 1<sup>st</sup> AD

Organization of Officer

CPT

Grade

Trial Counsel

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

[redacted]  
Signature

12.

On 20 September, 2003, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me  
(See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

[Redacted]  
Typed Name of Immediate Commander

B Btry, 4-1 FA  
Organization of Immediate Commander

CPT

Grade

[Redacted]  
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1530 hours, 20 SEPT., 2003 at

HQ, 4-1 FA

Designation of Command or

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

FOR THE <sup>1</sup>

[Redacted]  
Typed Name of Officer

Commander

Official Capacity of Officer Signing

LTC

Grade

[Redacted]  
Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

HEADQUARTERS, 1st ARMORED DIVISION

b. PLACE

BAGHDAD, IRAQ

c. DATE (YYYYMMDD)

20031114

Referred for trial to the general court-martial convened by Court-Martial Convening Order Number 5,

this headquarters,

dated 20 August 2003, subject to the following instructions:<sup>2</sup>

COMMAND of BRIGADIER GENERAL DEMPSEY

Command or Order

[Redacted]  
Typed Name of Officer

Chief, Military Justice

Official Capacity of Officer Signing

MAJ

Grade

[Redacted]  
Signature

15.

On \_\_\_\_\_, I (caused to be) served a copy hereof on (each of) the above named accused.

[Redacted]  
Typed Name of Trial Counsel

CPT

Grade or Rank of Trial Counsel

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.

DEPARTMENT OF THE ARMY  
HEADQUARTERS, 1ST ARMORED DIVISION  
BAGHDAD INTERNATIONAL AIRPORT COMPLEX  
UNIT 93054  
APO AE 09324

COURT-MARTIAL CONVENING ORDER  
NUMBER 9

1 December 2003

The following members are detailed to the Special Court-Martial empowered to adjudge a bad-conduct discharge convened by Court-Martial Convening Order Number 5, this headquarters, dated 20 August 2003, for the trial of United States v. SSG John C. McKenzie, Battery B, 4<sup>th</sup> Battalion, 1<sup>st</sup> Field Artillery, 1<sup>st</sup> Armored Division only:

CSM [REDACTED] HHT, 1-2 ACR (L)  
CSM [REDACTED] HHC, 47<sup>th</sup> FSB, 1AD

Vice

CSM [REDACTED] 1 AR EN BDE  
SGM [REDACTED] HHC, 2d BDE, 82d ABN

BY COMMAND OF BRIGADIER GENERAL MARTIN E. DEMPSEY:

[REDACTED]

DISTRIBUTION:  
Each Indiv Conc (1)  
Record of Trial (1)  
Record Set (1)  
Reference Set (1)

MAJ, JA  
Chief, Military Justice

002162

CORRECTED COPY

DEPARTMENT OF THE ARMY  
HEADQUARTERS, 1ST ARMORED DIVISION  
BAGHDAD INTERNATIONAL AIRPORT COMPLEX  
APO AE 09324-3054

COURT-MARTIAL CONVENING ORDER  
NUMBER

5

20 August 2003

A general or special court-martial is convened with the following members and shall meet at a location to be determined:

COL. [REDACTED], HHC, 4th BDE, 1AD  
COL. [REDACTED], HHT, 2ACR (L)  
LTC [REDACTED], HHB, 2-3 FA  
LTC [REDACTED], HHC, 2 BDE  
LTC [REDACTED], HHC, 501st MI BN  
MAJ [REDACTED], HHC, 1AD  
MAJ [REDACTED], HHC, 1457th EN BN  
CPT [REDACTED], HSC, 389th EN BN  
CPT [REDACTED], HHC, 1st BCT, 1AD

In the event the accused submits a request pursuant to Article 25c, UCMJ, that the court be composed of at least one-third enlisted members, the officers not named below are excused and the court will be composed of the following officers and enlisted members:

COL. [REDACTED], HHT, 2ACR (L)  
COL. [REDACTED], HHC, 4th BDE, 1AD  
LTC [REDACTED], HHB, 2-3 FA  
LTC [REDACTED], HHC, 501st MI BN  
CPT [REDACTED], 389th EN BN  
CSM [REDACTED], 1 AR EN BDE  
SGM [REDACTED], HHC, 2ND BDE, 82ND ABN  
MSG [REDACTED], RHHT, 2ACR  
SFC [REDACTED], HHC 1-6 IN

All cases referred to the general or special court-martial convened by Court-Martial Convening Order Number 17 or 18, this headquarters, dated 8 December 2002 in which the court has not yet been assembled, will be brought to trial before the court-martial hereby convened.

BY COMMAND OF BRIGADIER GENERAL DEMPSEY:

DISTRIBUTION:  
Each Indiv Conc (1)  
Record of Trial (1)  
Record Set (1)  
Reference Set (1)

[REDACTED]  
MAJ, JA  
Chief, Military Justice

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DEPARTMENT OF THE ARMY  
HEADQUARTERS, 3<sup>RD</sup> BRIGADE COMBAT TEAM, 1<sup>ST</sup> ARMORED DIVISION  
BAGHDAD, IRAQ  
UNIT 92940, APO AE 09324-2940

REPLY TO  
ATTENTION OF:

AFZN-BB-CO


3 November 2003

MEMORANDUM THRU Staff Judge Advocate, 1<sup>st</sup> Armored Division, Baghdad, Iraq

FOR Commanding General, 1<sup>st</sup> Armored Division, Baghdad, Iraq

SUBJECT: Disposition of Court Martial Case (U.S. v. SSG John C. McKenzie)

1. This memorandum is to inform you of the results of a recently completed Article 32 investigation in the case of U.S. v SSG John C. McKenzie and to discuss with you my preference for the disposition of this case.
2. Staff Sergeant McKenzie was charged on 19 September 2003 with a violation of Article 93, UCMJ, for maltreatment of a detainee, and with a violation of Article 128, UCMJ, for assaulting the same detainee. The Article 32 investigation for this case was conducted on 22 October 2003. This investigation found reasonable grounds to believe that SSG McKenzie committed the Article 128 offense, as well as a variation on the charged Article 93 offense. It also found reasonable grounds to believe that SSG McKenzie violated Article 92, UCMJ, for being derelict in his duty to correct a subordinate soldier's maltreatment of the detainee. The recommendation of the investigating officer was that the case be referred to a Special Court-Martial empowered to adjudge a Bad-Conduct Discharge.
3. Despite this recommendation, it is my preference that I handle this case with a Field Grade Article 15. Although the charges in this case are serious, this appears to be the only indiscretion by the noncommissioned officer in question. In fact, even the witnesses against him stated that he is "by the book" and always sets the standard. I feel a Field Grade Article 15 is appropriate for this offense considering the circumstances surrounding it.
4. This case has not previously been referred to you for disposition. I will await word from you as to whether my intended resolution of this case is acceptable before executing any nonjudicial punishment, and will understand if you decide to pull the case up to your level for a court-martial.

  
COL, AR  
Commanding

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