

DEPARTMENT OF THE ARMY
Headquarters, 100th Area Support Group
APO AE 09114-3700

SFIM-GU-G-Z

20 APR 2004

MEMORANDUM FOR Commander, 100th Area Support Group, APO AE 09114-3700

SUBJECT: Article 32b, Investigation, Defense Delay Request

In the case of *U.S. v First Lieutenant Glenn A. Niles*, 615th Military
Police Company, APO AE 09114, the Defense's delay request in the pending Article 32
hearing until 11 May 2004 is approved ~~(disapproved)~~.

Commanding

003316

DEPARTMENT OF THE ARMY
Headquarters, 100th Area Support Group
APO AE 09114-3700

SFIM-GU-G-Z

21 MAY 2004

MEMORANDUM FOR RECORD

SUBJECT: Article 32b, UCMJ, Investigation, Defense Delay Request

In the case of *U.S. v First Lieutenant Glenn A. Niles,* 615th Military
Police Company, APO AE 09114, the Government requests that following Defense
delay requests be approved and ratified:

14 October 2003
30 October 2003
30 March 2003
17 April 2004
03 May 2004

The defense delays listed above are (approved) ~~(disapproved)~~.

Commanding

003317



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, V CORPS
UNIT 91400
APO AE 09302-91400



AETV-CG

10 DEC 2003

MEMORANDUM FOR Commander, PERSCOM (TAPC-PDT-PM), 200 Stovall Street,
Alexandria, Virginia 22332-0478

SUBJECT: Resignation for the Good of the Service in Lieu of General Court-Martial – 1LT
Glenn Niles, Jr., 615th Military Police Company, 709th Military Police Battalion, 18th Military
Police Brigade, APO AE 09302

1. I recommend disapproval of 1LT Niles' resignation from the Army in lieu of general court-martial.
2. 1LT Niles is pending trial by court-martial and is charged with three specifications of a violation of Article 93 and one specification of a violation of Article 133, both charges stemming from cruelty and maltreatment toward three Iraqi prisoners. In accordance with paragraph 3-14, Army Regulation 600-8-24, the charge sheet and allied documents are enclosed.

7 Encls

1. Accused's request
2. Chain of Command Recommendations
3. Defense Counsel Request
4. DA Form 458
5. Commander's inquiry and allied documents
6. OER
7. ORB

[REDACTED]
Lieutenant General, US Army
Commanding

003318



DEPARTMENT OF THE ARMY
U.S. ARMY HUMAN RESOURCES COMMAND
200 STOVALL STREET
ALEXANDRIA VA 22332-0478

AHRC-PDT-PM

28 JAN 2004

MEMORANDUM FOR Commanding General, Headquarters, V Corps, Unit 91400,
APO AE 09302-91400

SUBJECT: Resignation for the Good of the Service

1. The enclosed resignation for the good of the service tendered by First Lieutenant Glenn A. Niles Jr. USAR, MP, was not accepted by the Deputy Assistant Secretary (Army Review Boards).

2. The Deputy Assistant Secretary has directed that you take action as deemed appropriate.

FOR THE COMMANDER:

Ends

[REDACTED]
[REDACTED]
[REDACTED]
Chief, Officer Retirements
and Separations Section

003319





DEPARTMENT OF THE ARMY

527th Military Police Company
Baghdad, Iraq
APO AE 09302-1325

REPLY TO
ATTENTION OF

AETV-MPB

7 August 2003

MEMORANDUM THRU [REDACTED], Executive Officer, 709 Military Police Battalion, Baghdad, Iraq APO AE 09302-1324

FOR [REDACTED], Commander, 709 Military Police Battalion, Baghdad, Iraq APO AE 09302-1324

SUBJECT: Commander's Inquiry on 1LT Glenn A. Niles Jr. , 615 Military Police Company

1. BACKGROUND. On 30 JUL 03 it is alleged that 1LT Niles while in the latrine of the Detention Cell at the Al Taji Iraqi Police Station on 301000DJUL03 maltreated several of the detainees.

a. On 29 JUL 03 at the Al Taji Iraqi Police Station in Baghdad Iraq four detainees later identified as [REDACTED] and [REDACTED] were being held in the detention cell. Allegedly three of the detainees, [REDACTED], [REDACTED] and [REDACTED] went into the latrine portion of the detention cell. When the three detainees identified above entered the latrine they allegedly broke off one of the shower pipes in the middle shower stall and used the pipe to attempt to break a hole in the wall of the latrine. They broke several of the ceramic tiles out of the wall with the pipe and the hole is about four inches in depth at the deepest point. They were unsuccessful in breaking a hole all the way through the wall.

b. The detention cell in the Al Taji Iraqi Police Station is broken up into two sections; a holding area section and a latrine section. The holding area section is 32.5 feet long by 15.8 feet wide. The latrine section is joined to the holding section by a door. The latrine section of the detention cell is 15.8 feet long by 15.8 feet wide. In the latrine there are three stalls that each contain an Iraqi style toilet and a shower system.

c. The fourth detainee, [REDACTED], told the Military Police at the Al Taji Iraqi Police Station that the three detainees had attempted to escape from the Al Taji Iraqi Police Station by using a pipe from the shower in the second shower stall to punch a hole in the wall of the latrine. [REDACTED] has worked for coalition forces as an interpreter in the past.

e. The MPs removed the three detainees suspected of attempting to escape from the Al Taji Detention Cell and placed them in hand restraints. The prisoners remained in the plastic hand restraints for approximately one hour and then the hand restraints were removed so the detainees could use the latrine.

f. The MPs at the Al Taji Police Station called the 615 Military Police Company Tactical Operations Center (TOC) and informed the TOC of the incident. The TOC then notified the Platoon Leader that was responsible for the station, 1LT Niles, of the incident.

g. On 30 JUL 03 at approximately 0900D, 1LT Niles arrived at the Al Taji Iraqi Police Station. 1LT Niles informed [REDACTED] that he was going to enter the Detention Cell to look at the damage that was done to the detention cell. [REDACTED] gathered several other soldiers, [REDACTED], [REDACTED] and [REDACTED] to guard the detainees while 1LT Niles inspected the damage to the wall in the latrine of the Detention Cell. When the group entered the detention cell the detainees, approximately four detainees were placed against the back wall in the large holding area. [REDACTED] was ordered by 1LT Niles to pull security on the detainees. [REDACTED] stood in the doorway of the latrine keeping eyes on [REDACTED] and [REDACTED] in the latrine. 1LT Niles, [REDACTED] and [REDACTED] entered the latrine. 1LT Niles inspected the portion of the wall of the latrine that had been damaged by the detainees on 29 JUL 03. After conducting a visual inspection 1LT Niles told [REDACTED] to bring in the three

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detainees that had allegedly damaged the wall of the latrine. [REDACTED] and [REDACTED] separated the three detainees that had caused the damage. [REDACTED] remained in the large holding area pulling security on the remaining detainee.

h. When the first detainee entered the Detention Cell, 1LT Niles grabbed the detainee around the neck and pulled the detainee toward the wall and asked the detainee several times, "Did you do this?" directing the detainee to look at the hole in the wall of the latrine. He then pushed the detainee toward the back corner of the latrine. He grabbed the second detainee entering the latrine around the back of the neck in a similar fashion as the first and asked the second detainee several times, "Did you do this?" directing the detainee to look at the hole in the wall of the latrine. 1LT Niles then pushed the detainee toward the first detainee in the corner of the latrine near the damage to the wall. The third detainee walked around 1LT Niles and joined the other two detainees in the corner of the latrine near the damage to the wall. The three detainees were in a line against the wall facing 1LT Niles. At this point 1LT Niles struck the first detainee to enter the latrine in the stomach. When [REDACTED], located in the doorway of the latrine, witnessed 1LT Niles strike the first detainee, he went to inform [REDACTED], the platoon sergeant, what had taken place in the latrine. Then 1LT Niles struck the second detainee in the stomach. [REDACTED] located behind 1LT Niles, grabbed 1LT Niles from behind and attempted to pull him away from the detainees. 1LT Niles kicked the third detainee in the neck and shoulder area before [REDACTED] was able to remove 1LT Niles from the latrine. Once [REDACTED] had pulled 1LT Niles from the detainees, 1LT Niles proceeded to the MP Office. [REDACTED] passed 1LT Niles in the hallway on his way to the Detention Cell to try to determine what had transpired. [REDACTED] followed 1LT Niles into the MP Office and closed the door behind him. He told 1LT Niles, "You had better never ever put me or my soldiers in that kind of situation ever again", and [REDACTED] walked out of the office.

2. FINDINGS. After interviewing and gathering sworn statements from 5 soldiers that were at the Al Taji Iraqi Police Station during the incident, I conclude that 1LT Niles did maltreat three detainees in the latrine of the Detention Cell at the Al Taji Police Station. The three soldiers that were eye witnesses to the incident all state that they saw 1LT Niles assault the detainees by striking them with his fist and foot. 1LT Niles stated that he struck the detainees out of anger due to the damage they had caused to the wall of the latrine and the attempted escape from the Detention Cell. 1LT Niles lost control of the situation and his actions. All of the exhibits associated with this investigation reference the incident that occurred on 30 JUL 03.

a. Enclosures 2, 3, 4, 5, 6, 7, and 8 state that [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and 1LT Niles did enter the Detention Cell at the Al Taji Iraqi Police Station on 30 JUL 03.

b. Enclosure 4, and 6 allege that [REDACTED] and [REDACTED] witnessed 1LT Niles strike three detainees in various locations on their bodies while he was in the latrine of the Detention Cell at the Al Taji Iraqi Police Station.

c. Enclosure 5 alleges that [REDACTED] witnessed 1LT Niles strike one detainee before he ([REDACTED]) exited the latrine in order to inform the [REDACTED] about what had transpired in the latrine of the Detention Facility.

d. In Enclosures 2, 3, 4, and 5 [REDACTED], [REDACTED], and [REDACTED] all state that the detainees that 1LT Niles struck did not require any additional medical treatment nor did they sustain any visible injuries from the assault.

e. In Enclosure 8 1LT Niles states that he was overcome by anger and he was not in control of himself or his actions when he mistreated the detainees in the latrine of the Detention Cell of the Al Taji Police Station on 30 JUL 03.

f. In Enclosures 4, 5, 6, 7, and 8 all soldiers state that they did not feel threatened by any of the detainees while they were in the Detention Cell of Al Taji Police Station on 30 JUL 03.

g. In Enclosures 4, 5, and 6 [REDACTED], [REDACTED], and [REDACTED] state that the unit does not have Standing Operating Procedures to deal with Detainee Misconduct.

3. RECOMMENDATION. I recommend that a formal AR 15-6 Investigation be conducted, and that 1LT Niles be removed from his troop leading position until the completion of the investigation. I recommend that 1LT Niles

003321

AETV-MPB

SUBJECT: Commander's Inquiry on 1LT Glenn A. Niles Jr,

615 Military Police Company.

attend anger management classes. I also recommend that all soldiers in the Battalion, that deal with detainees, get additional training regarding proper detainee handling procedures.

4. POC is the undersigned at [REDACTED]-5231.

[REDACTED]
[REDACTED]
Investigating Officer

003322

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| Enclosure 4 | Sworn Statement [REDACTED] | , on 04 AUG 03 |
| Enclosure 5 | Sworn Statement [REDACTED], | , on 04 AUG 03 |
| Enclosure 6 | Sworn Statement [REDACTED] | , on 04 AUG 03 |
| Enclosure 7 | Sworn Statement [REDACTED] | , on 04 AUG 03 |
| Enclosure 8 | Sworn Statement [REDACTED], | , on 06 AUG 03 |
| Enclosure 9 | Rights Warning Procedure/Waiver Certificate from 1LT Niles, on 06 AUG 03 | |

003323



DEPARTMENT OF THE ARMY
709th Military Police Battalion
Baghdad, Iraq
APO AE 09302-1324

AETV-MPB

1 August 2003

MEMORANDUM FOR [REDACTED]
Detachment, 709th Military Police Battalion

, Headquarters and Headquarters

SUBJECT: Commander's Inquiry

1. You are hereby appointed to conduct an unofficial investigation and Battalion Commander's Inquiry for the alleged maltreatment of Iraqi prisoners by a U.S. Army officer.
2. It has been alleged that 1LT Glenn A. Niles, [REDACTED], 615th Military Police Company, has mistreated Iraqi prisoners. Your findings will be presented in memorandum format to the undersigned no later than 8 August 2003.
3. The point of contact for this memorandum is the undersigned at [REDACTED]-5235.
4. "WARRIORS!"

[REDACTED]
[REDACTED]
[REDACTED]
Commanding

003324

SWORN STATEMENT

For use of this form, see AR 180-46; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY:

Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).

PRINCIPAL PURPOSE:

To provide commanders and law enforcement officials with means by which information may be accurately identified.

ROUTINE USES:

Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.

DISCLOSURE:

Disclosure of your social security number is voluntary.

1. LOCATION

BAGHDAD, IRaq

2. DATE (YYYYMMDD)

2003/08/01

3. TIME

1600

4. FILE NUMBER

5. LAST NAME, FIRST NAME, MIDDLE NAME

6. SSN

7. GRADE/STATUS

8. ORGANIZATION OR ADDRESS

1/615 MP Co

9.

I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 30 July 03 AT Approx. 1600hrs I was working AT The front Desk of The AL-TAJI Police station when [REDACTED] Ran out of the D-CELL Telling me that I needed to go in there. I Ran Down The Hallway and entered the D-CELL. 1LT Niles was exiting the D-CELL As I entered. [REDACTED], [REDACTED], and [REDACTED] were in there. There were three prisoners who were brought in for murder sitting on the ground and they appeared to be upset. I was told that 1LT Niles Had struck the Prisoners I don't recall who told me that And I still Don't know why the LT DID what He DID. I went to the MP Room To speak with The LT. I Asked him what happened and he just shook his head. [REDACTED] was very upset I was trying to Figure out what happened Because I know [REDACTED] will exaggerate the truth. [REDACTED] had Already gone out and told soldiers what had happened Before he talked to me. So I Told them to stop talking about It Because Everytime they tell somebody the story will change. I Told him to Let me handle It and stop Talking to soldiers about It. I was very

10. EXHIBIT

11. INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF 3 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF

TAKEN AT DATED

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

STATEMENT OF

TAKEN AT

BAGHDAD

DATED

2003/08/01

B. STATEMENT (Continued)

Confused About what had happened. AT The time I DID NOT KNOW How to deal with It. In Almost 16 years of service I Have Dealt with many soldier Issues but I have never had to deal with officer misconduct. I Know that there is A Dislike For the LT in the platoon and part of the company. I Feel that there are some soldiers in this platoon who would use an opportunity like this one and try and get LT Niles Removed From The Platoon whether he did anything or not. I Do Not agree with nor Am I Trying To cover up what LT Niles may have done in the D-CELL. It was Not Reported immediately Because I was confused and I was trying to Figure out what happened because The LT was very calm and acted like nothing had happened I was Also trying to Figure out the Best course of Action To Take. I Also Recently Found out that LT Niles has had A History of anger problems while in Kuwait. Since taking over the platoon It has been very difficult AT Times To Deal with him. He is set in his ways and will Not Listen at times. I have worked very hard to reestablish A working relationship Between the LT and the Platoon. Lastly I ~~was hoping~~ ^{was hoping} the LT would come forward and clear the air with me on what happened. But That never happened. I continued to work with the platoon Like everything was being handled and taken care of. Because I knew I would have to Inform the chain of command on what happened.

INITIALS OF PERSON MAKING STATEMENT

PAGE

2 OF 3

PAGES

STATEMENT OF

TAKEN AT

BAGHDAD

DATED

2003/08/01

9. STATEMENT (Continued)

NOT USED

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 3. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[REDACTED]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 2 day of Aug, 2003 at

[REDACTED]
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

[REDACTED]
(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

ARC 636 (b)(4)
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 3 OF 3 PAGES

603327



DEPARTMENT OF THE ARMY

709th Military Police Battalion
615th Military Police Company
Unit 28130
APO AE 09302-1326

REPLY TO
ATTENTION OF

AETV-MPC-K

18 SEP 03

MEMORANDUM THRU

Commander 709th Military Police Battalion
Commander 18th Military Police Brigade

FOR Commanding General, CJTF-7

SUBJECT: Recommendation of UCMJ Action on 1LT Glenn Niles

1. Request 1LT Glenn Niles be allowed to resign his commission with a General Discharge from active service in lieu of General Courts martial. Without question 1LT Niles did conduct himself in an unacceptable manner as an officer. However, his performance prior to and his actions afterward have convinced me that this officer is worthy of this request.
2. 1LT Niles has been assigned to the unit and served as a Platoon Leader for over 2 years. Prior to this incident, I have never questioned his judgment, values or ability to serve with distinction. Prior to this deployment he successfully led his platoon thru 2 company level EXEVALs, numerous field exercises, and community law enforcement throughout USAREUR. During combat operations he successfully led his platoon from the front rendering superb results.
3. 1LT Niles did not try to cover up any misconduct on his part and came forward truthfully disposing all that happened in the incident. His open admissions show that he is willing to accept responsibility for his actions.
4. 1LT Niles needs to be punished for his actions. However, I request that the punishment not be one that will significantly impact on his livelihood for the rest of his life. Prior to entering the Army 1LT Niles served as a counselor for abused children, where he helped over 100 families and was truly an asset to society. A federal conviction from a Courts Martial will ultimately severely impact his ability to perform again as a counselor as well as give back to society.
5. POC for this action is [REDACTED] at [REDACTED] 5321.

[REDACTED]
[REDACTED]
Commanding

003328



DEPARTMENT OF THE ARMY
709th Military Police Battalion
Baghdad, Iraq
APO AE 09302-1324

AETV-MPB

23 SEP 03

MEMORANDUM THRU Commander, 18th MP BDE

FOR Commanding General, CJTF-7

SUBJECT: Recommendation of UCMJ Action on 1LT Glenn Niles

1. I request that you allow 1LT Glenn Niles to resign his commission with a General Discharge in lieu of General Court Martial. I do not condone the actions of 1LT Niles but I am compelled to ask for leniency in this case.
2. The actions 1LT Niles took on the day in question were inappropriate and there is no excuse for his conduct. I ask that you consider the circumstances surrounding the incident and 1LT Niles' past performance. 1LT Niles and his platoon put their heart and soul into the Taji Police Station. They personally cleared debris from the police station prior to contract work beginning and supervised every detail of renovation. 1LT Niles committed himself to the mission at hand. His dedication was not for his benefit, it was for the benefit of the Iraqi Police and the Iraqi citizens in general. 1LT Niles got mad because detainees had destroyed part of the renovated detention cell, an area that had extensive contract work completed. He was frustrated because he saw the hard work that he supervised get destroyed.
3. 1LT Niles is a passionate young officer. He made a mistake and he took responsibility for his actions. He has been removed as a platoon leader and moved to a staff position and continues to provide outstanding service to the soldiers he serves.
4. I hope that you will consider these facts and also recognize that the possibility of a Federal conviction will severely impact on this young man's future.
5. The point of contact is the undersigned, [REDACTED]

[REDACTED]
Commanding

003329

DEPARTMENT OF THE ARMY
HEADQUARTERS, SEVENTH ARMY TRAINING COMMAND
OFFICE OF THE STAFF JUDGE ADVOCATE
APO AE 09114

AETV-BGJA

JUN 2 2004

MEMORANDUM FOR Commanding General, Seventh Army Training Command, APO AE 09114

SUBJECT: Pretrial Advice on Disposition of Court-Martial Charges, 1LT Glenn A. Niles Jr.,
515th Military Police Company, APO AE 09114

1. I have reviewed the charge sheet and evidence indicated in the report of investigation in the subject case. The following constitutes my advice in accordance with the provisions of Article 34, Uniform Code of Military Justice, and Rule for Courts-Martial 406, Manual for Courts-Martial, United States, 2002.

2. Legal Conclusions. After a thorough review of the charge sheet and report of investigation, I have reached the following legal conclusions:

a. Each specification alleges an offense under the Uniform Code of Military Justice.

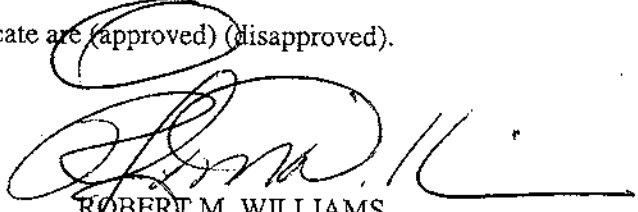
b. The allegation of each offense is warranted by the evidence indicated in the report of investigation conducted in accordance with the provisions of Article 32, Uniform Code of Military Justice, and Rule for Courts-Martial 405, Manual for Courts-Martial, United States, 2002.

c. There is court-martial jurisdiction over the accused and the charged offenses.

3. Recommendation. The Investigating Officer recommends this case be disposed of with a General Officer Memorandum of Reprimand. I disagree. I recommend the charges and their specifications be referred to the general court-martial convened by Court-Martial Convening Order Number 1, this headquarters, dated 25 February 2004.


Staff Judge Advocate

The recommendations of the Staff Judge Advocate are approved (disapproved).


ROBERT M. WILLIAMS
Brigadier General, USA
Commanding

JUN 2 2004

003330

DEPARTMENT OF THE ARMY
HEADQUARTERS, SEVENTH ARMY TRAINING COMMAND
UNIT 28130
APO AE 09114-8130

AETT-CG


JUN 2 2004

MEMORANDUM FOR 1LT Glenn A. Niles Jr., [REDACTED] 615th Military Police Company, APO AE 09114

SUBJECT: Referral of Court-Martial Charges, 1LT Glenn A. Niles Jr.,
Police Company, APO AE 09114

515th Military

The charges and their specifications, preferred on 30 September 2003, are referred to the general court-martial convened by Court-Martial Convening Order Number 1, this headquarters, dated 25 February 2004.


ROBERT M. WILLIAMS
Brigadier General, USA
Commanding

003331

COURT-MARTIAL CHARGES TRANSMITTAL FORM

PART I

TO:

FROM:

DATE:

Court-Martial charges against the following named individual are forwarded and Enclosed. Witness statements, any evidence of previous misconduct, and the accused's ERB are attached. Soldier is not pending chapter action UP AR 635-200.

NAME: NILES, Glenn A., Jr.

RANK: 1LT/O2 SSN

UNIT: 615th Military Police Company, APO AE 09114-3700

Recommend:

☐ Summary Court-Martial

☐ Special Court-Martial

☐ BCD Special Court-Martial

☐ General Court-Martial

NAME OF COMMANDER

SIGNATURE OF COMMANDER

PART II

TO:

FROM:

DATE:

I have reviewed the attached charges, documents, and Article 32 (if applicable) and (recommend)(direct):

☐ Summary Court-Martial

☐ Special Court-Martial

☐ BCD Special Court-Martial

☐ General Court-Martial

NAME OF COMMANDER

SIGNATURE OF COMMANDER

PART III

TO: Commander, 7th Army
Training Command, APO AE
09114

FROM: Commander, 100th Area
Support Group, APO AE 09114

DATE:

12 1 MAY 2004

I have reviewed the attached charges, documents, and Article 32 (if applicable) and (recommend)(direct):

☐ Summary Court-Martial

☐ Special Court-Martial

☐ BCD Special Court-Martial

☐ General Court-Martial

☒ Other: Article 15

NAME OF COMMANDER

SIGNATURE OF COMMANDER

Commanding

003332

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
 PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
 ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
 DISCLOSURE: Disclosure of your social security number is voluntary

| | | | |
|---|---|-------------------------------|----------------|
| 1. LOCATION BAGHDAD, IRAQ | 2. DATE (YY MM DD) 2003/08/04 | 3. TIME 1500 | 4. FILE NUMBER |
| 5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED] | 6. SSN [REDACTED] | 7. GRADE/STATUS [REDACTED] | |
| 8. ORGANIZATION OR ADDRESS 11615 MP Co | | | |
| 9. | | | |

I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

ON 30 July 03 AT APPROXIMATELY 1000 hrs. I WAS WORKING THE FRONT DESK AT THE AL-TAJI POLICE STATION WHEN [REDACTED] RAN OUT OF THE D-CELL AND TOLD ME THAT I WOULD TO GET IN THERE. I RAN DOWN TO THE D-CELL AND I WAS ENTERING 1LT NILES WAS EXITING. HE HAD A VERY ANGRY EXPRESSION ON HIS FACE. I ENTERED THE D-CELL AND [REDACTED], [REDACTED] AND [REDACTED] WERE ALL STANDING IN THE LATRINE AREA OF THE D-CELL. THERE WERE 3 PRISONERS SITTING ON THE GROUND AND THEY SEEMED VERY UPSET AND SCARED. I ASKED WHAT HAD HAPPENED AND I DON'T RECALL WHO TOLD ME BUT I WAS TOLD THAT THE [REDACTED] HAD STRUCK THE PRISONERS. I STILL DON'T KNOW WHAT PROVOKED THE [REDACTED] HIT THE PRISONERS THE PRISONERS DID NOT SEEM TO BE INJURED. [REDACTED] LEFT THE D-CELL AND WENT TO THE MP ROOM WHERE 1LT NILES WAS. I ALSO WENT TO THE MP ROOM WHERE 1LT NILES WAS SITTING BEHIND THE DESK. I ENTERED AND SHUT THE DOOR. [REDACTED] STOOD IN FRONT LT NILES AND TOLD ME THAT HE HAD [REDACTED] DO THAT AGAIN AND LEFT. I THEN ASKED LT NILES WHAT HAPPENED AND HE JUST SHOOK HIS

| | | |
|-------------|---|--------------------------|
| 10. EXHIBIT | 11. INITIALS OF PERSON MAKING STATEMENT [REDACTED] | PAGE 1 OF 5 PAGES |
|-------------|---|--------------------------|

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT _____ DATED _____

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED. **003333**

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF [REDACTED] TAKEN AT BAGHDAD, Iraq DATED 2003/08/04

9. STATEMENT (Continued)

head and did not Respond. A short Time later he was acting as if Nothing had happened. I was hoping he would tell me what really happened But he never did. I Don't know why he took 4 MP's with him into the D-CELL. ALL I KNOW IS THAT he wanted to speak To them about what had happened the day prior. They tried To Escape by chipping away at the wall. Normally we check on the prisoners with no more than 2 MP's. Why the LT Took 4 with him is unknown Also I Don't Recall there Being an Interpreter or IP's IN the D-CELL AT The Time. AFTER The INCIDENT Happened I was confused and DIDN'T KNOW how to EXACTLY handle IT. I HAVE NEVER Dealt with any type of officer misconduct before. I continued to work the remainder of the shift LIKE Everything was normal and nothing happened. I DID NOT want the soldiers to Find out ABOUT the incident. The Following morning soldiers were talking ABOUT what had happened and I Found out [REDACTED] had already told several Soldiers of the incident. I spoke with [REDACTED] and Told him to stop talking ABOUT IT Because Everytime a soldier tells his/her side of the story It will change I Told him to let me handle IT [REDACTED] has been known to Exaggerate the truth

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INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 2 OF 5 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF [REDACTED] TAKEN AT BAGHDAD, Iraq DATED 2003/08/04

9. STATEMENT (Continued)

I DID NOT REPORT IT immediately Because Like I stated I was very confused and I have never Been placed in A situation like this one. I was Also hoping the LT would come Forward and Clear the Air but he continued to Act like nothing happened. I knew the incident was serious and It needed to be reported. I donot agree with nor was I trying to cover anything LT NILES DID. Shortly AFTER Entering the platoon I was told that LT Niles has had A History of anger problems. I was told of Two seperate incidents he was involved in while still at Camp New York. It has been difficult For me AT TIMES To work with LT Niles because he is set in his ways and will not Listen at times. However he has never gotten angry with me. He has gotten in several arguments with the squad Leaders and other Leaders of the company when there is A disagreement. Nothing has been physical. I HAVE worked very hard to reestablish A working relationship between him and the platoon but Like I said he is A very difficult individual to work with at times because It is Very easy For issues to develop into arguments. The names of the Three prisoners who were sitting on the Floor and were upset are [REDACTED], [REDACTED] and [REDACTED].

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INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 3 OF 5 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF [REDACTED] TAKEN AT BA CHAN DATED 2003/08/04

9. STATEMENT (Continued)

Q. THE FOLLOWING QUESTIONS WERE USED TO CLARIFY THE STATEMENT [REDACTED]
Q. WHAT IS THE STANDARD OPERATING PROCEDURE FOR DEALING WITH PRISONER MISCONDUCT? ([REDACTED])

A. WE DO NOT HAVE AN SOP TO DEAL WITH PRISONER MISCONDUCT TO MY KNOWLEDGE. THIS IS THE FIRST CASE OF PRISONER MISCONDUCT THAT I ~~AM~~ HAVE KNOWLEDGE OF. ([REDACTED])

Q. IN THE PAST HAVE YOU EVER WITNESSED 1ST NILES USE PHYSICAL FORCE TO DEAL WITH ANGER?

A. NO

Q. WHAT WAS THE DISPOSITION OF THE 3 DETAINees THAT 1ST NILES STRUCK WHEN YOU ENTERED THE LATRINE OF THE DETENTION CELL?

A. ALL THREE WERE SITTING ON THE FLOOR KNUDLED TOGETHER. THEY APPEARED TO BE SCARED. I DID NOT SEE ANY SIGNS OF INJURY ON THE DETAINees.

Q. DID ANY OF THE DETAINees THAT WERE STRUCK BY 1ST NILES REQUIRE ADDITIONAL MEDICAL ATTENTION?

A. NO

Q. WHEN AND HOW WERE THE DETAINees TRANSPORTED AND TRANSFERRED TO CAMU CHOPON?

A. AT APPROXIMATELY 1300 HRS ON 30 JULY 03. THEY WERE TRANSPORTED BY [REDACTED] AND [REDACTED]

Q. IS THERE ANYTHING THAT YOU WOULD LIKE TO ADD TO THIS STATEMENT?

A. NO

003336

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 4 OF 5 PAGES

STATEMENT OF

TAKEN AT

BAGHDAD

DATED

2003/08/04

9. STATEMENT (Continued)

USED

Not

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 5. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[REDACTED]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 4 day of Aug, 2003 at Taji IPS Station

ORGANIZATION OR ADDRESS

[REDACTED]
(Signature of Person Administering Oath)

[REDACTED]
(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

Aat 136 (61 (4))
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 5 OF 5 PAGES

SWORN STATEMENT

For use of this form, see AR 190-46; the proponent agency is ODCS/DP.

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 1943
 PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
 ROUTINE USES: Your social security number is used as an additional/alternate means of identification for processing and retrieval.
 DISCLOSURE: Disclosure of your social security number is voluntary.

| | | | |
|--|--|-------------------------|---------------------|
| 1. LOCATION AL TAJI POLICE STATION | 2. DATE (YYYY-MM-DD) 20030804 | 3. TIME 2345 | 4. F MBER |
| 5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED] | 6. SSN [REDACTED] | 7. STATUS ACT | |
| 8. ORGANIZATION OR ADDRESS 615TH MP Co | | | |
| 9. <p>On 30 July 2003 at approximately 0945 hrs LT Niles wanted to see the D-cell and the 3 individuals (prisoners) that did the damage in the D-cell. [REDACTED] and I opened the D-cell to see. On opening the door the LT went back into the latrine/shower room and we separated the prisoners to get the three that were responsible. The 4 that had nothing to do with it against the east wall. I left as you enter the D-cell. I left [REDACTED] in the D-cell to watch the 4 prisoners and proceeded with the other 3 into the latrine/shower room. We walked into the room the LT was standing at the edge of the door looking back at us, [REDACTED] and [REDACTED] were in front of [REDACTED]. I brought the prisoners in the LT started to back up a little and grabbed the first prisoner behind his head and started saying, "Did you do this?" He swung the prisoner by his head in the direction of the other two. Then grabbed the second one around the back of his head and swung him in the same direction. The third prisoner picked up what [REDACTED] and moved over to the first two. By this time I had walked into the room the LT had moved down to the 3 prisoners. When I rounded the corner I stopped and watched the 4 of them. Without warning the LT punched him in the gut causing the prisoner to fall down. He then I started to move forward and as I did the [REDACTED] second</p> | | | |
| 10. EXHIBIT | 11. INITIALS OF PERSON MAKING STATEMENT [REDACTED] | | |

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT. MUST BE INDICATED.

AGE 1 6 PAGES

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AGE 1 6 PAGES

STATEMENT OF [REDACTED] TAKEN AT 2345 [REDACTED] DATE 20 [REDACTED]

9. STATEMENT (Continued)

PRISONER AND PUNCHED HIM IN THE GUT ALSO AND THAT PRISONER [REDACTED] DO. THE
THIRD PRISONER WAS VERY AFRAID AND WAS COWERING DOWN [REDACTED] SING MISTER,
PLEASE NO." BY THIS TIME I HAD MY ARMS AROUND THE LT AT EM [REDACTED] ALL HIM
AWAY AND TELLING HIM THAT THAT WAS ENOUGH. AS I WAS PUNING HIM BA [REDACTED] KICKED
THE THIRD PRISONER IN THE SHOULDER AS HE WAS COWERING [REDACTED] THE LT
BACK AND TURNED HIM AROUND. WHEN I TURNED AROUND [REDACTED] S THE
ONLY ONE THERE, [REDACTED] HAD GONE TO GET [REDACTED] S TO [REDACTED] TOWARDS
[REDACTED] AND TOLD HIM TO GET THE LT OUT OF THERE. I [REDACTED] AND
CHECKED TO SEE IF THE PRISONERS WERE OK AND THEN I [REDACTED] ABOUT
SPEAK TO THE LT, I WAS VERY [REDACTED] MAD. AS I WAS LEAVING [REDACTED] CC [REDACTED] LAW [REDACTED]
[REDACTED] STILL GUARDING THE OTHER 4 PRISONERS AGAINST THE [REDACTED] THE CELL
GOING DIRECTLY TO THE MP BREAK ROOM/ARMS ROOM. SSG [REDACTED] IS [REDACTED] IG RIGHT
BEHIND ME. AS I ENTERED THE ROOM I SHUT THE DOOR ON [REDACTED] DAY IN, [REDACTED] NG IT
RIGHT IN [REDACTED] FACE. I WAS SO MAD AT THE LT THAT [REDACTED] DID NOT [REDACTED] THINK
ABOUT DISRESPECTING MY PLATOON [REDACTED], I JUST HAD TO [REDACTED] AT HE
DID WAS WRONG. I TOLD HIM THAT HE BETTER NEVER, EVE [REDACTED] OR [REDACTED] LDERS
IN THAT KIND OF [REDACTED] SITUATION EVER AGAIN AND TURNED [REDACTED] ID, OPE [REDACTED] HE DOOR,
AND WALKED OUT. WHEN I WALKED OUT [REDACTED] I WENT [REDACTED] D SAUT [REDACTED] DOOR. [REDACTED]

Question (Q) [REDACTED]

Answer (A) [REDACTED]

Q: WHAT IPS STATION DO YOU WORK AT?

A: AL TAJI POLICE STATION [REDACTED]

Q: WHAT DAMAGE DID THE DETAINEES DO TO THE [REDACTED] IN [REDACTED] 5 1/2
DETENTION CELL?

A: THEY PULLED A PIPE OFF OF THE SHOWER AND USED THIS [REDACTED] ALL,
KNOCKING ABOUT 6 TILES OFF AND THEN DUG INTO THE WALL [REDACTED] PROXIMATELY [REDACTED] INCHES, [REDACTED]

Q: How Do you Know WHICH DETAINEES CAUSED THE
WALL OF THE LATRINE?

003339

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGES

STATEMENT OF

TAKEN AT

2345th

DATED

20 3080

9. STATEMENT (Continued)

A. AT THE TIME THAT THE DAMAGE OCCURED WE HAD 4 PRISONERS IN THE CELL. 3 THAT WERE IN FOR MURDER/VEHICLE THEFT AND 1 FOR LOOTING. THE 1 THAT WORKS FOR US TOLD US WHAT THEY WERE DOING. THE 1 THAT WORKS FOR US TOLD US WHAT THEY WERE DOING. THE 1 THAT WORKS FOR US TOLD US WHAT THEY WERE DOING.

Q: WHAT ARE THE NAMES OF THE 4 PRISONERS THAT WERE IN THE DETENTION CELL ON 30/000 JUL 03?

A: THEIR NAMES WERE [REDACTED] (SUSPECTED LOOTING), [REDACTED], AND [REDACTED].

Q: WHO IDENTIFIED THAT THE WALL IN THE DETENTION CELL HAD BEEN DAMAGED?

A: THE PRISONER [REDACTED] SPEAKS A LITTLE ENGLISH AND GOT [REDACTED] TO GO IN TO INSPECT IT.

Q: WHO DID YOU NOTIFY ABOUT THE DAMAGE TO THE DETENTION CELL AT YOUR IPS STATION?

A: I CALLED BLOODHOUND BASE TO INFORM THEM OF THE DAMAGE.

Q: WHAT DAY DID THE DAMAGE OCCUR TO THE DETENTION CELL?

A: THE DAY BEFORE THE INCIDENT, THE 29TH OF JULY.

Q: HOW DID 1LT NILES TELL YOU HE WAS WITH THE PRISONERS THAT DID THE DAMAGE TO THE DETENTION CELL?

A: HE DIDN'T SAY THAT HE WAS GOING TO DO ANYTHING TO US. HE WANTED TO SEE THOSE RESPONSIBLE.

Q: WHEN 1LT NILES TOLD YOU THAT HE WANTED TO ALLEGEDLY CAUSED THE DAMAGE TO THE DETENTION CELL, WERE YOU GOING TO CAUSE PHYSICAL HARM TO THEM?

A: NO, I DID NOT.

INITIALS OF PERSON MAKING STATEMENT

003340

PAGE

PAGES

STATEMENT OF

TAKEN AT

2345

DATED

30804

9. STATEMENT (Continued)

Q: WHAT DID LT NICO DO TO THE FIRST PRISONER WHEN HE ENTERED THE LATRINE

A: HE GRABBED HIM BY THE BACK OF THE HEAD AND SWUNG HIM AROUND, THROWING HIM TOWARDS THE DAMAGED WALL.

Q: DID YOU ATTEMPT TO STOP LT NICO FROM BEHAVING IN THIS MANNER?

A: NO, I DID NOT.

Q: WHY DIDN'T YOU CORRECT LT NICO'S BEHAVIOR?

A: I THOUGHT THAT HE WAS JUST TRYING TO SCARE THEM SO THEY WOULD TRY TO BREAK OUT AGAIN, I DIDN'T KNOW THAT HE WAS GOING TO ESCALATE IT.

Q: HOW DO YOU KNOW THAT LT NICO STRUCK THE PRISONER?

A: I WAS STANDING BY THE EDGE OF THE INNER WALL AND HE NO ONE BETWEEN ME AND THE LT. I SAW HIM PUNCH THE FIRST PRISONER INTO THE FLOOR HOLDING HIS STOMACH. BUT I WENT DIRECTLY TO THE PRISONER.

Q: HOW DO YOU KNOW THAT LT NICO STRUCK THE SECOND PRISONER?

A: I SAW HIM GRAB THE PRISONER THEN I SAW HIS ARM MOVE BACK AND HE THREW A PUNCH TO THE BUTT.

Q: WHAT DID YOU DO WHEN LT NICO STRUCK THE PRISONERS?

A: I STARTED TO MOVE FORWARD TO PULL THE LT OFF OF THE PRISONERS.

Q: WHAT WAS HIS REACTION WHEN YOU ATTEMPTED TO PULL HIM BACK?

A: HE STARTED TO BACK UP AND ON THE WAY BACK HE KICKED THE PRISONERS IN THE SHOULDER AREA.

Q: WHAT DID YOU DO TO ASSESS THE EFFECTS OF LT NICO'S STRIKES ON THEIR MEDICAL CONDITION?

A: I GAVE THE PRISONER A LOOK TO SEE HOW THEY WERE. THEY WERE STILL CONSCIOUS, NOT BLEEDING, AND ALL WERE CRYING. AT THAT POINT I WENT TO GO AND TALK TO THE LT.

INITIALS OF PERSON MAKING STATEMENT

PAGE

PAGES

STATEMENT OF [REDACTED]

TAKEN AT

2345

DATED

20030804

9. STATEMENT (Continued)

Q. Did Any of the Detainees that 1st Nices Struck Require Any Medical Care Due to His Alleged Assault?

A. NO, THEY DID NOT.

Q. Have you ever seen 1st Nices Physically Abuse anyone in the Past?

A. WHILE IN KUWAIT AT CAMP NEW YORK HE GRABBED ONE OF THE [REDACTED] AND BY THE ARM AND THREW HIM TOWARDS THE DOOR OF OUR TENT.

Q. What is the Standard Operating Procedure for Dealing with Detainees that Cause Damage to Government Facilities.

A. WHEN WE HAVE A PRISONER IN THIS SITUATION WE CAN DEAL WITH THE INDIVIDUAL BY USING ZIP STRIPS, HAND CUFFS, ETC.

Q. What Punishment did the 3 Detainees that Damaged the Wall in the Corridor of the Detention Cell Receive?

A. THEY RECEIVED NO PUNISHMENT BUT WE DID ZIP STRIP THEIR BACKS FOR APPROXIMATELY 45 MINUTES. AND WE MOVED THEM TO THE OTHER D-CELL FOR FEAR OF RETRIBUTION.

Q. How did 1st Nices React when you told him that you were going to put him to sit you on your Squares in that Position?

A. HE HAD NO REACTION. HE JUST SAT THERE, HE DIDN'T SAY ANYTHING.

Q. Is there Any other Incidents that I should know about that were in the Detention Cell when this Incident took Place?

A. [REDACTED]

Q. Do you Have Anything to Add to this Statement?

A. NO.

END OF STATEMENT

003342

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

PAGE 5 C 4 PAGES

STATEMENT OF [REDACTED] TAKEN AT 2845 DA ID 20030804

9. STATEMENT (Continued)

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE BEEN READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 6. I FULLY UNDERSTAND THE CONTENT OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[REDACTED]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 2003 of Aug at TAFI 18 on

ORGANIZATION OR ADDRESS

[REDACTED]
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

[REDACTED]
(Signature of Person Administering Oath)
[REDACTED]
(Signature of Person Administering Oath)

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

003343

PAGE 6 OF 6 PAGES

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).

PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately

ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.

DISCLOSURE: Disclosure of your social security number is voluntary.

| | | | |
|--|--------------------------------|---------------------------|----------------|
| 1. LOCATION Al Ta'ee Police Station. | 2. DATE (YYYYMMDD) 20030804 | 3. TIME 2300 | 4. FILE NUMBER |
| 5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED] | 6. SSN [REDACTED] | 7. GRADE/STATUS E-5/AD | |
| 8. ORGANIZATION OR ADDRESS UK 6 MP Co Baghdad Iraq. | | | |

1. [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On the morning of July 30, 2003 after shift change procedures had been completed Lt. Mills stated that he wanted to speak to the prisoners about an attempted riot earlier the day prior. At that time I grabbed [redacted] and [redacted] and we followed [redacted] and [redacted] to the D-cell. We did not take any IP's with us. We entered the D-cell separated the 3 prisoners in question from the rest, leaving [redacted] the main room of the D-cell to guard the remaining prisoners. I stood in the doorway between the main room and the latrine to watch [redacted] back while he guarded the remaining detainees. Lt. Mills, [redacted], [redacted] and the 3 in question were in the latrine. [redacted] and [redacted] were standing side by side just beyond the half wall in front of the stalls. I saw Lt. Mills take the one of the prisoners by the neck, he did this by grabbing the back of his neck and take him towards the damaged wall. At this point I looked down to see if he was all right and heard a loud thump as if someone was pushed against a wall with Lt. Mills saying "Yeah, I did yend this to my D-cell." at that time. I went to where Sgt. Earnest [redacted] [redacted] [redacted] was standing and I looked around to the door of the latrine. I saw two of the prisoners pressed against the wall with one covering the front of them. I saw Lt. Mills closed fist hit the prisoner in the right shoulder, collar bone area, he punched him 3 times, in rapid succession and then immediately started kicking the prisoner in the rib area. At which time [redacted] went over to pull Lt. Mills off the prisoner, but Lt. Mills got in at least 3 good kicks before [redacted] could

| | | |
|-------------|--|--------------------------|
| 10. EXHIBIT | 11. <u>WITH ONE PERSON MAKING</u> <u>INT</u> | PAGE 1 OF <u>6</u> PAGES |
|-------------|--|--------------------------|

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT TAKEN AT

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MADE.
MUST BE BE INDICATED.

4. ID _____ 003344

STATEMENT AND PAGE NUMBER

STATEMENT OF

TAKEN AT

Tajiri Police Station

DATED

4 Aug 03

9. STATEMENT (Continued)

Pull him off. Pissed off and disgusted I left the D-cell and went to get [redacted] the PLT Sgt. I told him he needed to be in the D-cell now because the LT was hitting one of the prisoners. at that time I went outside. I came back in approx. 5 minutes later to see [redacted] come out to a closed door discuss with Lt Wiles and the PLT Sgt go into cell. I went back outside and worked the Dis Mount Point with [redacted] and [redacted] approx. 4 hours later we ascertained the 3 that attempted the breakout and one other prisoner to Camp Cropper. we returned with one prisoner to be released and [redacted] the day finished business as usual.

The following questions are used to clarify the statement by [redacted]

Question (1) [redacted]

Answer (1) [redacted]

Q. When you entered the Detention Cell is there Police Presence required?

A. As far as I know, NO

Q. How much time elapsed from the time you entered the Detention Cell to the time you exited?

A. 3-to 4 minutes tops

Q. How many detainees did the Nicos Strike?

A. 1

Q. When you entered the Detention Cell did you feel that your well-being was threatened?

A. No

003345

INITIALS OF PERSON MAKING STATEMENT [redacted]

PAGE 2 OF 6 PAGES

STATEMENT OF

TAKEN AT

Taj Police Station DATED 21 Aug 83

9. STATEMENT (Continued)

Q. Did the Detainees Receive Any Medical Care Due to the Assault by 1st Niles?

A. No.

Q. When you witnessed 1st Niles Strike the Detainee what was your Location in Relation to 1st Niles, i.e. nearest, the

A. I was to the left of [redacted] and [redacted] who were standing adjacent to the first stall. Lt. Niles was walking past me to the left with his back towards the stalls. So I had a view of his left side.

Q. What is your Duty Description within 1st Platoon?

A. I am the 1st Squad Bravo Team Leader.

Q. Have you ever witnessed 1st Niles Lose His Temper?

A. Yes.

Q. By what means Did He Come with His Anger?

A. He Walked Away from the Situation.

Q. Have you ever witnessed 1st Niles use Any Force to Come with Anger?

A. No.

Q. After you exited the Detention Cell what are the Circumstances Around your Next Interaction with the Detainees that 1st Niles Struck?

A. We took them out of the Cell one by one, searched and cuffed them. Then one by one we placed them into the vehicles. One to the back of the vehicles one by one. I sorted them into the holding area where MI asked them some questions. Later Rolcross spoke to them.

INITIALS OF PERSON MAKING STATEMENT

PAGE 3 OF 6 PAGES

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USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF

TAKEN AT

DATED

Alaya 3

9. STATEMENT (Continued)

after Redcross, they were escorted into the actual detainee compound turned over to the MPs running the camp.

Q. How Long After the Incident in the Detention Cell did you Transport the Detainees to Camp Cropper?

A. Approx 3 to 4 hours.

Q. Before you Transported the Detainees to Camp Cropper you stated that you Searched all the Detainees, what were you looking for during your Search and what did you find?

A. Contraband and tender spots from the assault. I found neither.

Q. Where did you Search the Detainees?

A. I did a Pat down Search before I put them in the vehicles.

Q. For Classification, did you find any Contraband or Tender spots on the Detainees' Bodies?

A. No I did not.

Q. What did the three Detainees do to upset the MPs?

A. The day before they attempted a Breakout. They broke a steel pipe out of the shower and attempted to break through the Brick wall.

Q. How were the Detainees Disciplined for their Misconduct?

A. They were handcuffed for a couple of hours.

Q. Is there a Standing Operating Procedure in place that outlines the Prison Disciplinary measures for Detainees with respect to Misconduct?

A. To my knowledge, No.

Q. When you entered the Detention Cell with [redacted] [redacted] [redacted] what were your intentions/expectations in relation to what was going to happen?

A. Provide Security for Lt Miles while he talked to the prisoners. I expected him to talk to them.

INITIALS OF PERSON MAKING STATEMENT

PAGE 4 OF 6 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF

TAKEN AT

Tajikistan

DATED

4 Nov 03

9. STATEMENT (Continued)

Q. Why didn't you attempt to stop Mr. [redacted] from hitting the detainees?

A. because [redacted] had already started, and I felt that the issue should be handled by him and the Pst. so I went and got [redacted] instead. [redacted]

Q. Do you have anything to add to this statement?

A. No. [redacted]

/// End of Statement ///

003348

INITIALS OF PERSON MAKING STATEMENT

[redacted]

PAGE 5 OF 6 PAGES

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

Not used
[Redacted]

Not used
[Redacted]

AFFIDAVIT

I, [Redacted], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 6. I FULLY UNDERSTAND THE CONTENT OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT [Redacted]

[Redacted]
(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 14 day of Aug 2003 at TASI IPS DETENTION

[Redacted]
(Signature of Person Administering Oath)

[Redacted]
(Typed Name of Person Administering Oath)

Ant. 135 (4)
(Authorized to Administer Oaths)

003349

PAGE 6 OF 6 PAGES

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCS/PS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION: Al Taji Police Station, Iraq 2. DATE (YYYYMMDD): 2003 08 04 3. TIME: 1730 4. FILE NUMBER:
 5. LAST NAME, FIRST NAME, MIDDLE NAME: [REDACTED] 6. SSN: [REDACTED] 7. GRADE/STATUS: E-4/AD
 8. ORGANIZATION OR ADDRESS: 615th MP Co

9. [REDACTED] WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
 On 30 Jul 03, at approx. 1000hrs, I stated that myself and [REDACTED] were going to get the detainees out of the Taji D-cell for a work detail. Lt Niles told me to wait that he and [REDACTED] were going with us to the D-cell. Upon entering the cell, Lt Niles asked which 3 detainees had tried to escape the previous day. We pointed out the 3 detainees and the Lt motioned for them to go into the bathroom, where they had tried to escape by knocking a hole through the wall with a pipe. Lt Niles went into the bathroom first followed by [REDACTED] and then myself. [REDACTED] stayed in the detention cell guarding the other prisoners. Lt Niles grabbed the first detainee by the back of the neck or his shoulder and moved him over to the wall in the wall and asked him once or twice "Did you do this?". He then struck the man in the stomach and the man fell to the floor. He then grabbed the second man and struck him in the stomach as well. [REDACTED] was grabbing Lt as he was going at the third man. The third man cowered on the floor and the Lt kicked at him as [REDACTED] was pulling him. I think the Lt grazed the man's shoulder with the kick. [REDACTED] showed up somewhere in the middle of all of the confusion. I got Brian saw the Lt. hit the first and possibly the second prisoner. Then he went to get SSG Dixon out of the office. [REDACTED] came in to see what all happened in the D-cell and then all of the NCOs took the Lt out of the office, where I heard one or more of them yelling at him. [REDACTED] The following questions are to clarify the statement.

Question: [REDACTED]
 Answer: [REDACTED]
 Q. I think a lot for dealing with detainees that
 A. Just what we have been trained before. We try to [REDACTED] the D-cell.

10. EXHIBIT: [REDACTED] 11. INITIALS OF PERSON MAKING STATEMENT: [REDACTED]
 ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT [REDACTED]
 THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING STATEMENT. MUST BE INDICATED.

STATEMENT OF [REDACTED] TAKEN AT Taji Police Station 1 Aug 03

9. STATEMENT (Continued)

Q. WERE THE DETAINEES DISCIPLINED FOR ATTEMPTING TO ESCAPE OR THE JAIL?

A. [REDACTED] stated that he wanted to bound [REDACTED] and behind [REDACTED] and not use them.

Q. How Much Time ELAPSED FROM THE TIME THAT YOU [REDACTED] TO THE TIME THAT YOU EXITED?

A. FROM 5-10 minutes [REDACTED]

Q. WHAT WAS THE DISTANCE BETWEEN YOU AND [REDACTED] WHEN HE WAS STRIKING THE DETAINEES?

A. I WAS APPROX. 10 FT BEHIND HIM [REDACTED]

Q. How many Times AND WHERE DID HE MISS STRIKE [REDACTED]?

A. HE STRUCK THE FIRST 2 ONCE EACH IN THE STOMACH. THE [REDACTED] WAS KICKED IN THE SHOULDER AREA ONCE THAT I COULD SEE [REDACTED]

Q. WHEN YOU ENTERED THE DETENTION CELL AT ANY TIME [REDACTED] FEEL THREATENED SO THAT YOU WOULD BE REQUIRED TO REPORT [REDACTED]?

A. NO, NOT AT ALL [REDACTED]

Q. DID ANY OF THE DETAINEES THAT WERE STRUCK BY [REDACTED] REQUIRE ADDITIONAL MEDICAL ATTENTION?

A. NO [REDACTED]

Q. HAVE YOU EVER BEEN IN OR WITNESSED A [REDACTED] ASSAULT OR ASSAULT WITH ANYONE?

A. NO. [REDACTED]

Q. WHAT WAS YOUR INVOLVEMENT IN TRANSFERRING [REDACTED] WHO WERE STRUCK BY [REDACTED] TO CAMP CHAPAR?

A. I WAS A GUAARD RIDING IN THE HIVEE AND I GUAARD THEM AND DID NOT NOTICE ANY OF THEM LIMPING OR HAVING INJURIES. [REDACTED]

003351

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

4 PAGES

STATEMENT OF

TAKEN AT

Taji Police Station

2/10/03

9. STATEMENT (Continued)

Q. Is there anything that Lt Nicos did that would have led you to believe that to hit the detainees?

A. He put flight gloves on, but he is always wearing the other than that, no.

Q. How would you characterize the relationship of Lt Nicos?

A. We do not get along. He is very physical, he does the "you game". So I try not to do anything physical. We do not get along with him to begin with.

Q. Were you in a position to stop Lt Nicos from hitting the detainees?

A. Yes, but [redacted] had already moved in to stop him.

Q. How much time elapsed between the time that the first and third detainees?

A. 10-20 seconds, it was too fast to really register what was going on until the third detainee was hit. Very fast.

Q. Do you have anything to add to this statement?

A. Not that I can think of.

END OF STATEMENT

INITIALS OF PERSON MAKING STATEMENT

003352

4 PAGES

STATEMENT OF

TAKEN AT Taji Police Station DA

203

9. STATEMENT (Continued)

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE HAD READ TO ME THE STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 4. I FULLY UNDERSTAND THE CONTENTS OF THE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE OR UNLAWFUL INDUCEMENT.

STATEMENT
STATEMENT MADE
EACH PAGE
WITHOUT

WITNESSES:

Subscribed and sworn to before me and
administer oaths, this 4
at TAJI IPS 520

Authorized by law to
203

ORGANIZATION OR ADDRESS

[REDACTED]
(Signature of Person)

(Oath)

ORGANIZATION OR ADDRESS

[REDACTED]
(Typed Name of)

(Oath)

INITIALS OF PERSON MAKING STATEMENT

003353

SWORN STATEMENT

For use of this form, see AR 190-46; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

| | | | |
|---|----------------------------------|-------------------------------|----------------|
| 1. LOCATION TAVI POLICE STATION | 2. DATE (YYYYMMDD) 2003 08 04 | 3. TIME 2345 0605 | 4. FILE NUMBER |
| 5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED] | 6. SSN [REDACTED] | 7. GRADE/STATUS [REDACTED] | |
| 8. ORGANIZATION OR ADDRESS 615TH MP COMPANY | | | |

9. I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH: I WAS ON RADIO GUARD AT THE DESK WHEN I OVER HEARD THAT THE PRISONERS WERE TRYING TO BREAK OUT. WELL AT THE TIME I WANTED TO SEE THE WHOLE THAT WAS TRYING TO BE DUG. BUT I COULDN'T BECAUSE I WAS ON RADIO GUARD. [REDACTED] WAS AVAILABLE TO RELIEVE ME, AT FIRST SHE [REDACTED] BUT SHE WANTED TO SEE IT FIRST. SHE CAME BACK AND RELIEVED ME, SO THAT I TOO MIGHT SEE THE WALL WALKING TO GO TO THE O-CELL I WAS ORDERED TO WATCH THE THREE PRISONERS. SO I DID. THE OTHER THREE PRISONERS WENT TO THE SHOWER/BATH-ROOM PART WHERE THEY TRIED TO ESCAPE. I WAS ORDERED BY THE LT [REDACTED] TO GUARD THE OTHER THREE. WHILE THE LT, [REDACTED], [REDACTED] AND [REDACTED] WENT WITH THE LT. BE ADVISED I DID NOT HAVE EYES ON THE LT, [REDACTED], THE PRISONERS. IF I LEANED BACK I COULD SEE [REDACTED] [REDACTED] WAS THE CLOSEST ONE TO ME. LIKE I SAID I WAS GUARDING THE PRISONERS AND ONLY WATCHED THEM. I TOOK MY EYES OFF OF THEM THREE TIMES. ONCE WAS WHEN I HEARD THE LT SAY, "LOOK AT THIS DID YOU DO THIS" THEN I TURNED LOOKING FOR A SPLIT SECOND [REDACTED] HAD EYES ON [REDACTED] [REDACTED] PUT I COULDN'T SEE ANY THING ELSE. I TURNED BACK AND RESUM ED WATCHING THE OTHERS. I HEARD IT AGAIN FOLLOWED BY FOOTSTEPS RIGHT NEXT TO ME. SO OUT [REDACTED] HEARD IT AGAIN FOLLOWED BY FOOTSTEPS RIGHT WHO WAS COMING BEHIND ME IT WAS [REDACTED] I TURNED TO GLANCE AT THE LT ONCE AGAIN, "DID YOU DO THIS?" [REDACTED] LEAVING. I THEN HEARD I DIDN'T HEAR ANY CRIES OF DEATH OR NOTHING. THIS WENT ON FOR A FEW MORE SECONDS THEN THE LT CAME OUT ALL LOOKING LIKE A MAD FATHER. RIGHT AFTER THAT [REDACTED] SAID I WAS RELIEVED SO WE LEFT, AND WENT TO OUR NEXT GUARD SPOT. ALL OF THIS HAPPENED BETWEEN 0600 HRS AND 1300 HRS.

THE FOLLOWING QUESTIONS ARE NECESSARY TO CLARIFY THE STATEMENT OF [REDACTED]

| | | |
|-------------|---|-------------------|
| 10. EXHIBIT | 11. INITIALS OF PERSON MAKING STATEMENT [REDACTED] | PAGE 1 OF 3 PAGES |
|-------------|---|-------------------|

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT _____ DATED _____ 003354

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF [REDACTED] TAKEN AT TAH POLICE STATION DATED 70030804

9. STATEMENT (Continued)

Question. [REDACTED]

Answer. [REDACTED]

Q. Who ordered you to Guard the Three Prisoners in the Detention Cell that Day?

A. LT [REDACTED]

Q. When the Three Detainees entered the Carving Portion of the Detention Cell could you see their interaction with Lt Niles?

A. NO TE I COULD NOT.

Q. AT WHAT POINT DID [REDACTED] EXIT THE Detention Cell?

A. AFTER LT NILES SAID "LOOK AT THIS, DID YOU DO THIS, DID YOU DO THIS." THATS WHEN HE LEFT.

Q. Do you Have ANYTHING TO ADD TO THIS STATEMENT?

A. NO

||END OF STATEMENT||

003355

INITIALS OF PERSON MAKING STATEMENT
[REDACTED]

PAGE 2 OF 3 PAGES

STATEMENT OF [REDACTED] TAKEN AT TAI POLICE STATION DATED 2003 08 04

9. STATEMENT (Continued)

AFFIDAVIT

I, [REDACTED], HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 3. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[REDACTED]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 4 day of Aug, 2003 at TAI IPS Station

[REDACTED]
(Signature of Person Administering Oath)

[REDACTED]
(Typed Name of Person Administering Oath)

Ant. 136(b)(4)
(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE 3 OF 3 PAGES

003356

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

| | | | |
|--|---------------------------------------|----------------------------------|----------------|
| 1. LOCATION <i>Musad, Iraq</i> | 2. DATE (YYYYMMDD) <i>20030806</i> | 3. TIME <i>1033L</i> | 4. FILE NUMBER |
| 5. LAST NAME, FIRST NAME, MIDDLE NAME <i>Nicks, Jr. Glenn Anthony</i> | 6. SSN | 7. GRADE/STATUS <i>02/1LT</i> | |
| 8. ORGANIZATION OR ADDRESS <i>615th MP Company</i> | | | |

9. *Glenn A. Nicks, Jr.*, I WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
 On 29 July, 2003 I was notified that detainees in the Taji Police Station did attempt to escape. On 30 July, 2003 I did go to the Taji Police Station and requested to be shown the area in which the detainees attempted to escape. *[REDACTED]* did show me the area & change made to the wall. At which time I asked that the detainees in question enter the latrine. It is at this time that I became enraged and struck the detainees. I believe that there were four prisoners that I struck in various parts of their body. I was then removed from this area by a soldier. I then went and sat down in the MP office. At this time *[REDACTED]* came in and expressed his dissatisfaction in my behavior. *[REDACTED]* then came in and asked what happened. I believe *[REDACTED]* explained the situation to *[REDACTED]*. No further incidents occurred during the day. Days later I expressed to *[REDACTED]* that I was out of line and my behavior was not warranted.

THE FOLLOWING QUESTIONS ARE USED TO CLARIFY THIS STATEMENT

| | | |
|-------------|--|--------------------------|
| 10. EXHIBIT | 11. INITIALS OF PERSON MAKING STATEMENT <i>[REDACTED]</i> | PAGE 1 OF <i>7</i> PAGES |
|-------------|--|--------------------------|

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT DATED
 THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

60335

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF Niles, Jr. Glenn A. TAKEN AT Bangkok, Thailand DATED 10 Aug 2003

9. STATEMENT (Continued)

Q. [REDACTED]

A. 1st Niles [REDACTED]

Q. WHAT WAS YOUR REACTION WHEN YOU WERE MADE AWARE OF THE ATTEMPTED BREAKOUT AT THE DETENTION CELL AT AL TASI POLICE STATION ON 29 JUL 03?

A. I was very angry and pissed off. [REDACTED]

Q. WHEN YOU WENT TO AL TASI POLICE STATION ON 30 JUL 03 WHAT TIME DID YOU ENTER THE DETENTION CELL?

A. EXACT TIME UNKNOWN. APPROX. TIME WOULD BE AFTER 0900L [REDACTED]

Q. WHY DID YOU ENTER THE DETENTION CELL AT AL TASI POLICE STATION ON 30 JUL 03?

A. TO ~~SEE~~^{GO} see the damage that was done to the cell. [REDACTED]

Q. HOW MANY ~~GET~~^{DO} SOLDIERS ENTERED THE DETENTION CELL WITH YOU AT AL TASI POLICE STATION ON 30 JUL 03?

A. EXACT NUMBER UNKNOWN [REDACTED]

Q. AT ANY TIME WHILE YOU WERE IN THE DETENTION CELL DO YOU FEEL THAT YOUR SAFETY OR THE SAFETY OF YOUR SOLDIERS WAS IN JEOPARDY?

A. WHEN I ENTERED THE CELL I DID NOT FEEL THAT MY SAFETY WAS IN JEOPARDY. DURING THE ACTUAL INCIDENT I DO NOT RECALL THINKING ABOUT MY SAFETY. [REDACTED]

Q. HOW MANY DETAINMENTS WERE IN THE DETENTION CELL WHEN YOU ENTERED ON 30 JUL 03?

A. I BELIEVE IT WAS EIGHT. [REDACTED]

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

003358

PAGE 2 OF 7 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF Al. Kos, Jr. Glenn A TAKEN AT Brighton, Iowa DATED 4 Aug 2003

9. STATEMENT (Continued)

Q WHEN you WERE IN THE LATRINE OF THE DETENTION CELL WITH THE DETAINEES THAT ALLEGEDLY ATTEMPTED TO BREAK OUT OF THE DETENTION CELL ON 29 JUL 03 WHERE WERE THE REMAINDERS OF THE DETAINEES?

A. I believe that they were in the D-cell.

Q WAS A SOLDIER SECURING THE DETAINEES WHEN you WERE IN THE LATRINE PORTION OF THE DETENTION CELL?

A. I would assume that they were.

Q DO you NORMALLY ENTER THE DETENTION CELL?

A. Yes, at times I assist the soldiers in securing prisoners and searching the D-cell.

Q UNDER WHAT CIRCUMSTANCES DID you ENTER THE DETENTION CELL?

A. The reason for entering the D-cell was to see what damages were done to the cell.

Q WERE THERE ANY IPS INAA Police Service Present WHEN you ENTERED THE DETENTION CELL?

A. NO.

Q DID you HAVE BLACK GLOVES ON WHEN you ENTERED THE DETENTION CELL?

A. NO.

Q DID you ENTER THE DETENTION CELL WITH THE INTENTION OF STRIKING ANY OF THE DETAINEES?

A. NO.

003359

INITIALS OF PERSON MAKING STATEMENT

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF Nikolaj, In Gheni A TAKEN AT Bagdad, Iraq DATED 6 Aug 2003

9. STATEMENT (Continued)

Q WHAT WAS YOUR INTENTION WHEN YOU ENTERED THE DETENTION CELL?

A. MY INTENTION WAS TO SEE THE DAMAGES DONE TO THE CELL.

Q. WHEN YOU SAW THE DAMAGE DONE TO THE CELL WHAT DID YOU DO?

A. I ASKED THAT THE DETAINEES BE BROUGHT INTO THE LATRINE TO SEE WHAT DAMAGES THEY DID.

Q. WHEN THE DETAINEES THAT ALLEGEDLY CAUSED THE DAMAGE TO THE DETENTION CELL WERE BROUGHT INTO THE LATRINE WHAT DID YOU DO?

A. I LOST CONTROL AND BEGAN TO STRIKE THEM.

Q. EXPLAIN WHICH DETAINEES YOU STRUCK AND WHERE ON THEIR BODIES YOU STRUCK THEM.

A. I DO NOT REMEMBER WHICH DETAINEE I STRUCK. I REMEMBER STRICKING THEM ON THEIR TORSO.

Q. DID YOU STRIKE MORE THAN ONE DETAINEE?

A. I BELIEVE I DID.

Q. HOW MANY OF THE DETAINEES DID YOU STRIKE?

A. I BELIEVE ALL FOUR.

Q. WHAT IS THE APPROXIMATE HEIGHT AND WEIGHT OF THE DETAINEES THAT YOU STRUCK?

A. UNKNOWN.

Q. DID THE DETAINEES THREATEN YOU IN ANY WAY?

A. NO. NOT IN THE CELL.

003360

INITIALS OF PERSON MAKING STATEMENT

PAGE 4 OF 7 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF Niles Jr. Glenn A TAKEN AT Brightley, Iraq DATED 6 Aug 2003

9. STATEMENT (Continued)

Q. ON THE DAY IN QUESTION WERE YOU AWARE OF ANY OF THE
DETAINEES

A. NO. YAH

Q. AFTER YOU STRUCK THE DETAINEES UNDER WHAT CIRCUMSTANCES
DID YOU EXIT THE DETENTION CELL?

A. I WAS REMOVED BY A SOLDIER. YAH

Q. DO YOU REMEMBER WHICH SOLDIER REMOVED YOU?

A. NO. YAH

Q. HOW DID THE SOLDIER REMOVE YOU?

A. I WAS GRABBED & PULLED OUT. YAH

Q. WHERE DID YOU GO AFTER YOU WERE REMOVED FROM THE ~~THE~~ DETENTION
CELL?

A. MP OFFICE. YAH

Q. DID YOU EVER CHECK IF THE DETAINEES REQUIRED ANY MEDICAL
ATTENTION AS A RESULT OF YOUR ACTIONS?

A. NO. YAH

Q. ~~HAVE~~ WHY DID YOU STRIKE THE DETAINEES IN THE CORRIDOR
OF THE DETENTION CELL ON 30 JUL 03?

A. I WAS ASKED. YAH

Q. DOES YOUR UNIT HAVE AN STANDING OPERATING PROCEDURE
IN PLACE THAT DESCRIBES HOW TO DEAL WITH DETAINEE AND
DETAINEE MISCONDUCT?

A. YES, THE DIVISION POLICY AND THE USE OF FORCE. YAH

003361

INITIALS OF PERSON MAKING STATEMENT

YAH

PAGE 5 OF 7 PAGES

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF Nikis, Jr. Gibson A TAKEN AT Brighton, Tex DATED 10 Aug 2003

9. STATEMENT (Continued)

Q. Where you Across in the Detention Cell on 30 Jul 03 when you struck several detainees in accordance with those policies?

A. NO. ~~SAID~~

Q. Did you bring this incident to the attention of your Chain of Command?

A. NO. ~~SAID~~

Q. Why Didn't you bring this incident to the attention of your Chain of Command?

A. UNKNOWN. Did not think about reporting the incident higher. ~~SAID~~

Q. Do you Have Anything to Add to this Statement

A. NO. ~~SAID~~

End of statement
~~SAID~~

003362

INITIALS OF PERSON MAKING STATEMENT
~~SAID~~

PAGE 6 OF 7 PAGES

STATEMENT OF Niles, Jr. Eileen A TAKEN AT Baldwin, Ind DATED 6 Aug 2003

9. STATEMENT (Continued)

Not Used

AFFIDAVIT

I, Eileen A. Niles, Jr., HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 7. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[Signature]
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 6 day of August, 2003 at Warrick Precinct, Hammond, Ind

ORGANIZATION OR ADDRESS

[Signature]
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

[Signature]
(Typed Name of Person Administering Oath)

Anthony B. [Signature]
(Authorized To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 7 OF 7 PAGES

003363

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

For use of this form, see AR 190-30; the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

AUTHORITY: Title 10, United States Code, Section 3012(g)
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
ROUTINE USES: Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your Social Security Number is voluntary.

| | | | |
|---|--|--------------------------|-------------|
| 1. LOCATION <u>Bashdad, Iraq</u> | 2. DATE <u>6 AUG 2003</u> | 3. TIME <u>10:18L</u> | 4. FILE NO. |
| 5. NAME (Last, First, MI) <u>Niles, Jr Glenn A</u> | 8. ORGANIZATION OR ADDRESS <u>6015th MP Company APO AE 09302</u> | | |
| 6. SSN <u>[REDACTED]</u> | 7. GRADE/STATUS <u>02/1LT</u> | | |

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army Military Police and wanted to question me about the following offense(s) of which I am suspected/accused: ARTICLE 93 CRUELTY AND MALTREATMENT AND LAW OF WAR VIOLATION
 Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

- I do not have to answer any question or say anything.
- Anything I say or do can be used as evidence against me in a criminal trial.
- ☒ For personnel subject to the UCMJ I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.
 - or -
 (For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.
- If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS (Continue on reverse side)

Section B. Waiver

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

| | | |
|--------------------------------------|--|---|
| WITNESSES (If available) | | 3. SIGNATURE OF INTERVIEWEE <u>[REDACTED]</u> |
| 1a. NAME (Type or Print) | | 4. SIGNATURE OF INVESTIGATOR <u>[REDACTED]</u> |
| b. ORGANIZATION OR ADDRESS AND PHONE | | 5. TYPED NAME OF INVESTIGATOR <u>[REDACTED]</u> |
| 2a. NAME (Type or Print) | | 6. ORGANIZATION OF INVESTIGATOR <u>709 Military Police Battalion</u> |
| b. ORGANIZATION OR ADDRESS AND PHONE | | |

Section C. Non-waiver

- I do not want to give up my rights
☐ I want a lawyer
☐ I do not want to be questioned or say anything

2. SIGNATURE OF INTERVIEWEE

003364

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA FORM 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

Accused: Mr. [Name] at [Location]

1. WARNING - Inform the suspect/accused of:
 - a. Your official position. *Investigative Officer*
 - b. Nature of offense(s). *Ar 93 (Anti-Aircraft)*
 - c. The fact that he/she is a suspect/accused.
2. RIGHTS - Advise the suspect/accused of his/her rights as follows:

"Before I ask you any questions, you must understand your rights."

 - a. "You do not have to answer my questions or say anything."
 - b. "Anything you say or do can be used as evidence against you in a criminal trial."
 - c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer

can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."

- or -

(For civilians not subject to the UCMJ) You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."

- d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."

Make certain the suspect/accused fully understands his/her rights.

THE WAIVER

"Do you understand your rights?"

(If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)

"Have you ever requested a lawyer after being read your rights?"

(If the suspect/accused says "yes," find out when and where. If the request was recent (i.e., fewer than 30 days ago), obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)

"Do you want a lawyer at this time?"

(If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)

"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" (If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)

SPECIAL INSTRUCTIONS

WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.

IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.

PRIOR INCRIMINATING STATEMENTS:

1. If the suspect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions.

2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.

NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.

WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights. (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")

COMMENTS (Continued)

003365

00503483

| OFFICER EVALUATION REPORT | | | | | | | | | | SEE INSTRUCTIONS AND PREPARE FOR EVALUATION | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|--|--|---|---|---|--|--|--|--|--|-------------------------------------|--|--|---|--|--|---|--|-------------------------------------|-------------------------------------|-------------------------------------|--|--|---|---|-------------------------------------|-------------------------------------|-------------------------------------|---|--|--|---|-------------------------------------|-------------------------------------|-------------------------------------|---|--|--|---|-------------------------------------|-------------------------------------|-------------------------------------|--|--|--|--|-------------------------------------|-------------------------------------|-------------------------------------|
| PART I - ADMINISTRATIVE DATA | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1. NAME (Last, First, Middle Initial) NILES, GLENN A. | | | | 2. GRADE 2LT | | 3. DATE OF BIRTH 05 10 2001 | | 4. SERVICE / NUMBER MP 31A | | 5. EVALUATION / NUMBER 22 SR Option | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6. UNIT, MAIL ADDRESS, CITY AND STATE, ZIP CODE, MILITARY ADDRESS 615TH MILITARY POLICE COMPANY, APO AE 09114 USARBUR | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7. PERIOD COVERED | | | | 8. DUTY STATION | | 9. DUTY ASSIGNMENT | | 10. DUTY ASSIGNMENT | | 11. DUTY ASSIGNMENT | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th>Year</th> <th>Month</th> <th>Day</th> <th>Year</th> <th>Month</th> <th>Day</th> </tr> <tr> <td>2001</td> <td>09</td> <td>19</td> <td>2002</td> <td>07</td> <td>09</td> </tr> </table> | | | | Year | Month | Day | Year | Month | Day | 2001 | 09 | 19 | 2002 | 07 | 09 | 10 | | 19 Jul 02 | | 28 | | UH BU16 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Year | Month | Day | Year | Month | Day | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2001 | 09 | 19 | 2002 | 07 | 09 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PART II - AUTHORIZED SIGNATURES (Must be signed by the officer and the evaluator on the date of the evaluation) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1. NAME OF OFFICER (Last, First, MI) [Redacted] | | | | 2. GRADE [Redacted] | | 3. POSITION Company Commander | | 4. DATE 19 Jul 02 | | 5. SIGNATURE [Redacted] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6. NAME OF SUPERVISOR (Last, First, MI) [Redacted] | | | | 7. GRADE [Redacted] | | 8. POSITION Battalion Commander | | 9. DATE 10 Jul 02 | | 10. SIGNATURE [Redacted] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 11. NAME OF EVALUATOR (Last, First, MI) [Redacted] | | | | 12. GRADE [Redacted] | | 13. POSITION MP 7245 | | 14. DATE 10 Jul 02 | | 15. SIGNATURE [Redacted] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PART III - DUTY DESCRIPTION | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1. POSITION AND TITLE Platoon Leader | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2. DUTY DESCRIPTION Platoon Leader of in a Corps Combat Support Military Police Company. Responsible for the health, welfare, and morale of 32 soldiers and their family members. Lead, train, and maintain personnel and equipment valued in excess of \$4,000,000. Conducts realistic training in platoon collective tasks and supervises individual tasks supporting the unit METL. Provides trained and professional military police to conduct law enforcement support for four military communities. Performs major additional duties as the Arms Room, Motor Officer, NBC Officer and Training Officer. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PART IV - PERFORMANCE EVALUATION - PROFESSIONAL SKILLS (Judge) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| CHARACTER: (Judge the officer's character: evaluation of values, attitudes, and skills affecting leader actions) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3. ARMY VALUES (Judge the officer's character: evaluation of values, attitudes, and skills affecting leader actions) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| 8. LEADER ATTRIBUTES / SKILLS / ACTIONS: (Judge the officer's performance: evaluation of skills, knowledge, and abilities) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| 9. APPR: PASS DATE: APR 2002 REASON: 71 WEIGHT: 235 YES | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10. OFFICER DEVELOPMENT - (Judge the officer's development: evaluation of skills, knowledge, and abilities) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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003366

15 AUG 2002

NAME (Last, First, Middle Initial)
ILES, GLENN A.

PART I - ADMINISTRATIVE DATA

UNIT, GRADE, STATION, ZIP CODE OR APO, MAJOR COMMAND

15th Military Police Company, APO AE 09114 USAREUR

GRADE
1LT

Year
2002

Month
11

Day
10

Branch
MP

Specialty
31A

Reason for Submission

05 ANNUAL

| 1. PERIOD COVERED | | | | | | 2. DATES | 3. GRADE | 4. NO. OF | 5. RATER OFFICER COPY (Check one and do not detach) | | | | 6. DATE | 7. EMB CODE | 8. JSA CODE |
|-------------------|----|------|------|-----|-------|----------|----------|-----------|---|--------------------------|------|---------|---------|-------------|-------------|
| From | To | From | To | Day | Month | Year | Grade | No. | 1. Submit to Officer | 2. Forwarded to Office | Date | Initial | Code | Code | |
| 002 | 07 | 10 | 2003 | 07 | 09 | 10 | Q | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | | UH | EU17 | |

PART II - AUTHENTICATION (Rated officer's signature verifies officer has seen completed OER Parts I-VII and the admin data is correct)

| | | | | | |
|--|---|-------------------------------|------------------------|------------|-------------------------------|
| NAME OF RATER NAME, First, MI | SSN | RANK | POSITION | SIGNATURE | DATE |
| [Redacted] | [Redacted] | [Redacted] | Company Commander | [Redacted] | [Redacted] |
| NAME OF INTERMEDIATE RATER NAME, First, MI | SSN | RANK | POSITION | SIGNATURE | DATE |
| [Redacted] | [Redacted] | [Redacted] | [Redacted] | [Redacted] | [Redacted] |
| NAME OF SENIOR RATER NAME, First, MI | SSN | RANK | POSITION | SIGNATURE | DATE |
| [Redacted] | [Redacted] | [Redacted] | Battalion Commander | [Redacted] | [Redacted] |
| NAME RATER'S ORGANIZATION | BRANCH | SENIOR RATER TELEPHONE NUMBER | E MAIL ADDRESS | | |
| 13th Military Police Battalion | MP | [Redacted] 7243 | [Redacted]@us.army.mil | | |
| PO AE 09139 | 4. This is a referred report, do you wish to make comments? | | | | |
| <input type="checkbox"/> Yes, comments are attached <input type="checkbox"/> No | | | | | 5. SIGNATURE OF RATED OFFICER |
| | | | | | DATE |

PART III - DUTY DESCRIPTION

| | |
|----------------------|-----------------|
| PRINCIPAL DUTY TITLE | POSITION ADVICE |
| Platoon Leader | 31A / MP |

leads a forward deployed MTO&E Military Police Platoon capable of deploying anywhere in the world at a moments notice to conduct high intensity conflict or stability and support operations in support of the 793d Military Police Battalion, 18th Military Police Brigade and V Corps. Responsible for the combat readiness, training, health, morale and welfare of 32 soldiers. Plans and executes realistic training as well as providing law enforcement support to 3 different communities. Maintains over 85 weapons, 10 HMMWVs, 2 Armored Security Vehicles, numerous communications equipment and various other MTO&E equipment valued in excess of \$1,000,000. Areas of special emphasis include: unit supply officer, unit budget officer, unit status reporting officer, and DFAC officer.

PART IV - PERFORMANCE EVALUATION - PROFESSIONALISM (Rater)

CHARACTER Disposition of the leader, combination of values, attributes, and skills affecting leader actions

| ARMY VALUES (Comments mandatory for all "NO" entries. Use PART Vb.) | | Yes | No |
|--|--|-------------------------------------|--------------------------|
| HONOR: Adherence to the Army's publicly declared code of values | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| INTEGRITY: Possesses high personal moral standards; honest in word and deed | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| COURAGE: Manifests physical and moral bravery | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| LOYALTY: Bears true faith and allegiance to the U.S. Constitution, the Army, the unit, and the soldier | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 5. RESPECT: Promotes dignity, consideration, fairness, & EO | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 6. SELFLESS SERVICE: Places Army priorities before self | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 7. DUTY: Fulfills professional, legal, and moral obligations | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

RATER ATTRIBUTES / SKILLS / ACTIONS: First, mark "YES" or "NO" for each block. Second, choose a total of six that best describe the rated officer. Select one from ATTRIBUTES, two from SKILLS (Competence), and three from ACTIONS (Leadership). Place an "X" in the appropriate box with optional comments in PART Vb. Comments are mandatory in Vb for all "No" entries.

| | | | | | | | | |
|---|--|--|--|--|--|--|--|--|
| ATTRIBUTES (Select 1) Personal qualities and attributes | <input checked="" type="checkbox"/> MENTAL Possesses desire, will, initiative, and discipline | <input checked="" type="checkbox"/> NO | 2. PHYSICAL Maintains appropriate level of physical fitness and military bearing | <input checked="" type="checkbox"/> NO | 3. EMOTIONAL Displays self-control, composure, poise | <input checked="" type="checkbox"/> NO | | |
| | 1. CONCEPTUAL Demonstrates sound judgment, critical/creative thinking, moral reasoning | <input checked="" type="checkbox"/> NO | | 2. INTERPERSONAL Shows skill with people; coaching, teaching, counseling, motivating and empowering | | <input checked="" type="checkbox"/> NO | <input checked="" type="checkbox"/> TECHNICAL Possesses the necessary expertise to accomplish all tasks and functions | <input checked="" type="checkbox"/> NO |
| | <input checked="" type="checkbox"/> TACTICAL Demonstrates proficiency in required professional knowledge, judgment, and warfighting | | | | | | | |
| ACTIONS (LEADERSHIP) (Select 3) Major activities leaders perform: influencing, operating, and improving | <input checked="" type="checkbox"/> NO | | | | | | | |
| | 1. COMMUNICATING Displays good oral, written, and listening skills for individuals and groups | <input checked="" type="checkbox"/> NO | 2. DECISION-MAKING Employs sound judgment, logical reasoning and uses resources wisely | <input checked="" type="checkbox"/> NO | 3. MOTIVATING Inspires, motivates, and guides others toward mission accomplishment | <input checked="" type="checkbox"/> NO | | |
| | <input checked="" type="checkbox"/> PLANNING Develops detailed, executable plans that are feasible, acceptable, and suitable | <input checked="" type="checkbox"/> NO | <input checked="" type="checkbox"/> EXECUTING Shows tactical proficiency, meets mission standards, and takes care of people/resources | <input checked="" type="checkbox"/> NO | 4. ASSESSING Uses after-action and evaluation tools to facilitate consistent improvement | <input checked="" type="checkbox"/> NO | | |
| 5. PROGRESS Shows improvement in the Army and organization | 7. DEVELOPING Invests adequate time and effort to develop individual subordinates as leaders | <input checked="" type="checkbox"/> NO | 8. BUILDING Spends time and resources improving teams, groups and units; fosters ethical climate | <input checked="" type="checkbox"/> NO | <input checked="" type="checkbox"/> LEARNING Seeks self-improvement and organizational growth; envisioning, adapting and leading change | <input checked="" type="checkbox"/> NO | | |

| | | | |
|----------------|------------|-------------|-----|
| DATE: OCT 2002 | HEIGHT: 71 | WEIGHT: 237 | YES |
|----------------|------------|-------------|-----|

FOR OFFICER DEVELOPMENT - MANDATORY YES OR NO ENTRY FOR RATERS OF LT & WFLT

☒ YES ☐ NO ☐ NA

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| NAME NILES, GLENN A. | | PERIOD COVERED 20010919 - 20020709 | |
|--|--|------------------------------------|--|
| PART V - PERFORMANCE AND POTENTIAL EVALUATION (Rating) | | | |
| 1. EVALUATE THE RATED OFFICER'S PERFORMANCE DURING THE RATING PERIOD AND INDICATE POTENTIAL FOR PROMOTION | | | |
| <input checked="" type="checkbox"/> OUTSTANDING PERFORMANCE, MUST PROMOTE <input type="checkbox"/> SATISFACTORY PERFORMANCE, PROMOTE <input type="checkbox"/> UNSATISFACTORY PERFORMANCE, DO NOT PROMOTE <input type="checkbox"/> OTHER (Specify) | | | |
| 2. COMMENT ON SPECIFIC ASPECTS OF THE PERFORMANCE AND POTENTIAL FOR PROMOTION. REFER TO PART III, DA FORM 87-9 AND PART IV, DA FORM 87-9-1. | | | |
| <p>2LT Niles performance has been extremely exceptional. As a platoon leader of 32 soldiers platoon, he successfully provided direction and oversight with excellent result. A great leader, he inspired his soldiers to get a first time go during the most recent M4 qualification range. 2LT Niles is an excellent officer with unlimited potential for position of higher responsibilities. 2LT Niles is an aggressive, dedicated, highly motivated and a hard working Platoon Leader who gets the mission accomplished. 2LT Niles coordinated, planned, resourced and executed effective training exercises for his platoon, leading to his platoon's success during the Company EXEVAL. The Observer Controller complemented 2LT Niles for his platoon's performance, and his soldiers level of motivation during the Company EXEVAL. 2LT Niles maintained one hundred percent weapons qualification rate in his platoon, in addition to maintaining complete accountability of his platoon's equipment. He also ensured that his platoon's equipment was always mission capable. He planned and executed M4 qualification ranges. As the unit's NBC Officer and Arms room Officer, he has ensured that all the weapon systems and the NBC equipment are serviceable. Promoted him to First Lieutenant, groom for the Military Police Captain's Career Course and company command.</p> | | | |
| 3. IDENTIFY ANY UNIQUE PROFESSIONAL SKILLS OR AREAS OF EXPERTISE OF VALUE TO THE ARMY THAT THIS OFFICER POSSESSES. FOR ARMY COMPETITIVE CATEGORY CPT THROUGH LTC, ALSO INDICATE A POTENTIAL CAREER FIELD FOR FUTURE SERVICE. | | | |
| PART VI - INTERMEDIATE RATER | | | |
| PART VII - SENIOR RATER | | | |
| 1. EVALUATE THE RATED OFFICER'S PROMOTION POTENTIAL TO THE NEXT INCREMENT GRADE | | | |
| <input checked="" type="checkbox"/> BEST QUALIFIED <input type="checkbox"/> FULLY QUALIFIED <input type="checkbox"/> DO NOT PROMOTE <input type="checkbox"/> OTHER (Specify) | | | |
| 2. COMMENT ON PERFORMANCE/POTENTIAL | | | |
| <p>2LT Niles performance during this rating period has been nothing short of outstanding. Despite the high OPTEMPO, Glenn Niles has managed to lead, train and care for his soldiers in a totally professional and comprehensive manner. He shored up soldier weaknesses and sustained proficiency through well planned and flawlessly implemented training. He has improved his platoon's morale through leadership and by demonstrating an abiding orientation of care for soldiers. Send to a challenging company command immediately following attendance at the Captains' Career Course. Unlimited potential.</p> | | | |
| 3. LIST 3 FUTURE ASSIGNMENTS FOR WHICH THIS OFFICER IS BEST SUITED, FOR ARMY COMPETITIVE CATEGORY CPT THROUGH LTC, ALSO INDICATE A POTENTIAL CAREER FIELD FOR FUTURE SERVICE. | | | |
| <p>Company Commander, Battalion Assistant S3, Battalion S1.</p> | | | |
| 4. HODD COMPARISON OF THE SENIOR RATER'S PROFILE AND BOX CHECK AT THE TIME THIS REPORT PROCESSED | | | |
| <p>CENTER OF MASS</p> | | | |
| RO: 2LT NILES GLENN A SR: LTC WARD KENNETH M DATE: 2002 08 15 TOTAL RATINGS: 14 RATINGS THIS OFFICER: 1 | | | |

DA FORM 87-9, OCT 97 (Reverse)

USAPA 1201

003367

EVALUATE THE RATED OFFICER'S PERFORMANCE DURING THE RATING PERIOD AND HIS/HER POTENTIAL FOR PROMOTION

☒ OUTSTANDING PERFORMANCE, MUST PROMOTE ☐ SATISFACTORY PERFORMANCE, PROMOTE ☐ UNSATISFACTORY PERFORMANCE, DO NOT PROMOTE ☐ OTHER (Explain)

1LT Niles has aggressively performed his job as a platoon leader and produced good results. Glenn consistently took on every challenge that was set in front of him and accomplished them all with a high degree of success. 1LT Niles is a true motivator of soldiers both by his aggressive nature and rock solid concern for their well-being. Glenn performed such additional duties as the unit supply officer and budget officer. In the performance of these duties he played a critical role in splitting the unit's property book and maintaining accountability of all lateral transfers, additions, orders, and turn-in documents prior to deployment. His platoon spearheaded the units Armored Security Vehicle training which included 3 different training sessions all producing great results. 1LT Niles proved he had a good grasp of the Army training system when he planned and executed a rigorous pre-deployment training cycle that enable his platoon to receive all "T" ratings during their External Evaluation prior to deployment to "Operation Iraqi Freedom". While deployed he successfully planned and conducted over 20 convoy security missions, 7 cordon and searches and performed Maneuver and Mobility Support operations in an area over 100 square kilometers rendering superb results. He also led his platoon through 7 platoon level JUMP TOC operations in less than 40 days. Upon his platoons entry into Baghdad he aggressively took charge of and put into operation 2 Iraqi police stations helping to make the city a more secure place to live.

1LT Niles has unlimited potential. Continue to groom him and upon promotion assign him as the commander of a Corps Support Military Police company

IDENTIFY ANY UNIQUE PROFESSIONAL SKILLS OR AREAS OF EXPERTISE OF VALUE TO THE ARMY THAT THIS OFFICER POSSESSES. FOR ARMY COMPETITIVE CATEGORY CPT THROUGH LTC, ALSO INDICATE A POTENTIAL CAREER FIELD FOR FUTURE SERVICE.

Will serve the Army best in Operational Career Field 31A / MP

PART VI - INTERMEDIATE RATER

PART VII - SENIOR RATER

EVALUATE THE RATED OFFICER'S PROMOTION POTENTIAL TO THE NEXT HIGHER GRADE

☒ BEST QUALIFIED ☐ FULLY QUALIFIED ☐ DO NOT PROMOTE ☐ OTHER (Explain below)

POTENTIAL COMPARED WITH OFFICERS SENIOR RATED IN SAME GRADE (OVERPRINTED BY DA)

☐ ABOVE CENTER OF MASS (Less than 50% in top tier; Center of Mass if 50% or more in top tier)
☒ CENTER OF MASS
☐ BELOW CENTER OF MASS RETAIN
☐ BELOW CENTER OF MASS DO NOT RETAIN

1LT Glenn Niles has lead his platoon, under combat conditions, exceptionally well. He has proven himself uniquely competent - both technically and tactically, no doubt the reason his platoon enjoyed enormous success during Operation Iraqi Freedom. Physically and mentally tough, Glenn is absolutely mission oriented and a leader that inspires his troops to perform at their very best. A talented officer who should be promoted to Captain and selected to command a Corps or Division MP Company. Great Potential.

LIST 3 FUTURE ASSIGNMENTS FOR WHICH THIS OFFICER IS BEST SUITED. FOR ARMY COMPETITIVE CATEGORY CPT THROUGH LTC, ALSO INDICATE A POTENTIAL CAREER FIELD FOR FUTURE SERVICE.

Company Command, Asst S-3, Community Provost Marshal

003369



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
Headquarters, 280th PSB

Dear [REDACTED]

I am writing this memorandum as part of my continuing representation of 1LT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, 1LT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

In or out of the Army, this conviction is going to greatly impede 1LT Niles' future. If the conviction remains on his record, he will likely lose his security clearance. This will prevent him from continuing to serve as a member of the MP Corps. It will also eliminate many other options that he would have within the military. As a civilian, however, this conviction will have even more serious consequences. For instance, 1LT Niles will likely be unable to use his Masters in counseling because he would have a record.

I feel that a criminal conviction is unjust in this case. Of course, 1LT Niles could have pled not guilty and fought this charge. The simple fact is, however, that he did strike the Iraqi prisoners as alleged. He is a man of integrity and could not morally or ethically plead not guilty when he knew he did it. My belief is that 1LT Niles' misconduct should never have been brought to a court martial. My goal is to convince the Commanding General of that with my petition for clemency. 1LT Niles should have been given a reprimand in the beginning; the CG now has the opportunity to correct this and give 1LT Niles a real chance to "soldier back" from this incident and advance.

This is where you can help. RCM 1105 (b)(2)(D) provides that an accused can submit clemency recommendations from any person, including court-martial panel members, and that the defense can ask any person for such a recommendation. That is my purpose for writing you. It is not my intent to pressure you, nor do I desire to get any inside information related to your deliberations. Simply stated, 1LT Niles and I need your help. A letter from you as a panel member that heard all the facts in this case supporting our request will send a strong message that would be helpful in persuading the CG to set aside the conviction.

1LT Niles and I thank you for your consideration of this request. I am available to discuss this matter with you any time if you desire to contact me. I can be reached on [REDACTED] or in the office at [REDACTED]-2191. You can also contact me by email at [REDACTED]@us.army.mil. If you are willing and wish to make a clemency recommendation for 1LT Niles, please let me know and I will coordinate the logistics to make it happen.

Very Respectfully,

[REDACTED]

[REDACTED]
Trial Defense Counsel

CF:
OSJA, 1st Infantry Division

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DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
Headquarters, Combat Maneuver Training Center

Dear [REDACTED]:

I am writing this memorandum as part of my continuing representation of 1LT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, 1LT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

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This is where you can help. RCM 1105 (b)(2)(D) provides that an accused can submit clemency recommendations from any person, including court-martial panel members, and that the defense can ask any person for such a recommendation. That is my purpose for writing you. It is not my intent to pressure you, nor do I desire to get any inside information related to your deliberations. Simply stated, 1LT Niles and I need your help. A letter from you as a panel member that heard all the facts in this case supporting our request will send a strong message that would be helpful in persuading the CG to set aside the conviction.

1LT Niles and I thank you for your consideration of this request. I am available to discuss this matter with you any time if you desire to contact me. I can be reached on [REDACTED] or in the office at [REDACTED]. You can also contact me by email at [REDACTED]@us.army.mil. If you are willing and wish to make a clemency recommendation for 1LT Niles, please let me know and I will coordinate the logistics to make it happen.

Very Respectfully,

[REDACTED]

CP:
OSJA, 1st Infantry Division

[REDACTED]
[REDACTED]
Trial Defense Counsel

003371

DEPARTMENT OF THE ARMY
HEADQUARTERS, SEVENTH ARMY TRAINING COMMAND
UNIT 28130
APO AE 09114-8130


AETT-CG

APR 26 2004

MEMORANDUM FOR [REDACTED], U.S. Army Trial Defense Service, Vilseck Branch
Office, APO AE 09114

SUBJECT: Request for Expert Assistance in the Case of United States v. 1LT Glenn A. Niles, Jr.

Your request for appointment of [REDACTED], Landstuhl
Regional Medical Center, as an expert assistant and member of the defense team in the case of
U.S. v. 1LT Glenn A. Niles, Jr. is approved.


ROBERT M. WILLIAMS
Brigadier General, USA
Commanding

003372



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

AETV-BGJA-V-TDS

19 April 2004

MEMORANDUM THRU Staff Judge Advocate, Headquarters, 1st Infantry Division,
APO, AE 09036

FOR Commander, 7th Army Training Command (General Court Martial Convening
Authority), APO, AE 09114

SUBJECT: Request for Expert Assistance – United States v. 1LT Glenn A. Niles, 615th
Military Police Company, APO, AE 09114

1. 1LT Glenn A. Niles, the accused in the above-pending General Court Martial, requests the appointment of [REDACTED], Landstuhl Regional Medical Center, as an expert assistant to the Defense in the above matter. 1LT Niles further requests that [REDACTED] be designated as a member of the Defense team under U.S. v. Toledo, 25 M.J. 270 (C.M.A. 1987).
2. A military accused has, as a matter of Equal Protection and Due Process, a right to expert assistance when necessary to present an adequate defense. U.S. v. Garries, 22 M.J. 288 (C.M.A. 1986); U.S. v. Robinson, 39 M.J. 88 (C.M.A. 1994), citing Britt v. North Carolina, 404 U.S. 226 (1971) and Ake v. Oklahoma, 470 U.S. 68 (1985). "The Equal Protection Clause, the Due Process Clause, and Caldwell v. Mississippi, 470 U.S. 68 (1985); the Code; and the Manual provide that service members are entitled to expert assistance when necessary for an adequate defense. This right extends from the investigative stage through the appellate process." See, U.S. v. Johnson, 39 M.J. 88, 89 (C.M.A. 1994). Failure to employ this expert assistant would effectively deprive 1LT Niles of his ability to present a defense in this case and would deny him a "[m]eaningful access to justice." Ake v. Oklahoma, 470 U.S. 68 (1985).
3. This expert assistance is both relevant and necessary. 1LT Niles is accused of maltreatment of Iraqi prisoners during a brief period in the midst of a highly stressful combat deployment. His mental state at the time of the alleged offenses is critical to determining his degree of culpability. As his defense counsel, my ability to adequately prepare his defense will be compromised without the type of expert assistance requested. Further, the Defense cannot communicate freely with the expert on issues relating to the preparation of 1LT Niles' defense unless he is designated as a member of the Defense team under Toledo.

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AETV-BGJA-V-TDS

SUBJECT: Request for Expert Assistance – United States v. 1LT Glenn A. Niles, 615th
Military Police Company, APO, AE 09114

4. Thank you for your consideration of this request. POC is the undersigned at [REDACTED]
[REDACTED] 2191 or via email at [REDACTED]@cmtymail.100asg.army.mil.

cc:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]

Trial Defense Counsel

CMAAOF-S1

DEPARTMENT OF THE ARMY
HEADQUARTERS, SEVENTH ARMY TRAINING COMMAND
APO AE 09114


AETT-CG

AUG 4 2004

MEMORANDUM FOR First Lieutenant Glenn A. Niles, Jr. [REDACTED] 615th Military Police
Company, 409th Base Support Battalion, APO AE 09114

SUBJECT: Request for Deferment of Forfeitures

Effective today, pursuant to Article 57(a)(2), UCMJ, I defer adjudged forfeitures until such time
as I take action on this case.


ROBERT M. WILLIAMS
Brigadier General, US Army
Commanding

CF: 106th Finance Det.

003376



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

REPLY TO
ATTENTION OF:

AETV-BGJA-V-TDS

22 July 2004

MEMORANDUM FOR Commander, 7th Army Training Command, APO AE 09114

SUBJECT: Request for Deferment of Adjudged Forfeitures, 1LT Glenn A. Niles, Jr.,
3, 615th Military Police Company, APO, AE 09114

1. On 1 July 2004, at a General Court Martial in Vilseck, Germany, my client, 1LT Glenn A. Niles, Jr., was convicted of conduct unbecoming an officer and gentleman. His adjudged sentence was to be reprimanded and to forfeit \$1,003/month for 12 months.
2. On behalf of my client, I respectfully request that you defer 1LT Niles' adjudged forfeiture of pay until action is taken on his case IAW your authority granted by Article 57, UCMJ. 1LT Niles has a spouse and three young children that rely exclusively on his income to meet their day-to-day needs. A deferment until action would help alleviate the financial hardship on the Niles family.
3. Should you have questions or concerns please do not hesitate to contact me at [REDACTED].

Defense Attorney

003377

DEPARTMENT OF THE ARMY REPORT OF RESULT OF TRIAL

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

TO: Commander
1st Infantry Division
Office of the Staff Judge Advocate
APO AE 09036

M/B

1. Notification under R.C.M. 1101 and AR 27-10, paragraph 5-30 is hereby given in the case of the United States v. First Lieutenant Glenn A. Niles, Junior, [REDACTED], 615th Military Police Company, APO AE 09114.

2. Trial by General Court-Martial on 01 July 2004, at Rose Barracks Court Room, Vilseck, Germany convened by Court-Martial Convening Order Number 1, Headquarters, 1st Infantry Division, APO AE 09036.

3. Summary of offenses, pleas and findings:

| CH | ART UCMJ | SPEC | BRIEF DESCRIPTION OF OFFENSE(S) | PLEA | FINDING |
|----|----------|------|--|------|---------|
| I | 93 | 1 | In that 1LT NILES, at or near Al Taji Police Station, Baghdad, Iraq, on or about 30JUL03, were cruel toward and did maltreat [REDACTED], a person subject to his orders, by striking him in the stomach with a closed fist. | NG | NG |
| | | 2 | In that 1LT NILES, at or near Al Taji Police Station, Baghdad, Iraq, on or about 30JUL03, were cruel toward and did maltreat [REDACTED], a person subject to his orders, by striking him in the stomach with a closed fist. | NG | NG |
| | | 3 | In that 1LT NILES, at or near Al Taji Police Station, Baghdad, Iraq, on or about 30JUL03, were cruel toward and did maltreat [REDACTED], a person subject to his orders, by kicking him in the shoulder. | NG | NG |
| II | 133 | The | In that 1LT NILES, did, at or near Al Taji Police Station, Baghdad, Iraq, on or about 30JUL03, while a platoon leader in the 615th MP Co., and in the presence of [REDACTED], wrongfully and dishonorably grab [REDACTED] by the neck and strike him in the stomach with a closed fist, wrongfully and dishonorably strike [REDACTED] in the stomach with a closed fist, and while being detained by [REDACTED] wrongfully and dishonorably kick [REDACTED] in the shoulder, all to the disgrace of the Officer's Corps, and the Armed Forces. | G | G |

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CONTINUATION SHEET OF DA Form 4430, SEP 2002, Pertaining to U.S. v First Lieutenant Glenn A. Niles Junior, 615th Military Police Company, APO AE 09114

4. SENTENCE: To be reprimanded and to forfeit \$1003.00 pay per month for 12 months.
5. Date sentence adjudged and effective date of any forfeiture or reduction in grade (YYYYMMDD): 20040701 (See UCMJ Articles 57-58b and R.C.M. 1101.)
6. Contents of pretrial agreement concerning sentence, if any: The accused offer to plead guilty to the Charges and Specifications as stated in the Offer to Plead Guilty, and offer to abide by the other terms and conditions set forth in the Offer to Plead Guilty, provided the Convening Authority agrees to disapprove any confinement adjudged in excess of 45 days.
7. Number of days of presentence confinement, if any: None
8. Number of days of judge-order administrative credit for presentence confinement or restriction found tantamount to confinement, if any: None
9. Total pre-sentence confinement credit toward post-trial confinement: None
10. Names(s) and SSN(s) of companion accused or co-accused if any: None
11. DNA processing LAW 10 U.S.C. 1565 *is not* required.
12. Conviction(s) *does not* require sex offender registration LAW 42 U.S.C. 14071.

CF:
Cdr. 615th MP Co.
Cdr. Det B, 106th Finance
Trial Counsel
Defense Counsel


Trial Counsel

DA FORM 4430, SEP 2002

DA FORM 4430-R, MAY 87, IS OBSOLETE

003379



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
Headquarters, 11th Aviation Regiment

Dear [REDACTED]:

I am writing this memorandum as part of my continuing representation of 1LT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, 1LT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

In or out of the Army, this conviction is going to greatly impede 1LT Niles' future. If the conviction remains on his record, he will likely lose his security clearance. This will prevent him from continuing to serve as a member of the MP Corps. It will also eliminate many other options that he would have within the military. As a civilian, however, this conviction will have even more serious consequences. For instance, 1LT Niles will likely be unable to use his Masters in counseling because he would have a record.

I feel that a criminal conviction is unjust in this case. Of course, 1LT Niles could have pled not guilty and fought this charge. The simple fact is, however, that he did strike the Iraqi prisoners as alleged. He is a man of integrity and could not morally or ethically plead not guilty when he knew he did it. My belief is that 1LT Niles' misconduct should never have been brought to a court martial. My goal is to convince the Commanding General of that with my petition for clemency. 1LT Niles should have been given a reprimand in the beginning; the CG now has the opportunity to correct this and give 1LT Niles a real chance to "soldier back" from this incident and advance.

This is where you can help. RCM 1105 (b)(2)(D) provides that an accused can submit clemency recommendations from any person, including court-martial panel members, and that the defense can ask any person for such a recommendation. That is my purpose for writing you. It is not my intent to pressure you, nor do I desire to get any inside information related to your deliberations. Simply stated, 1LT Niles and I need your help. A letter from you as a panel member that heard all the facts in this case supporting our request will send a strong message that would be helpful in persuading the CG to set aside the conviction.

1LT Niles and I thank you for your consideration of this request. I am available to discuss this matter with you any time if you desire to contact me. I can be reached on [REDACTED] or in the office at [REDACTED]-2191. You can also contact me by email at [REDACTED]@us.army.mil. If you are willing and wish to make a clemency recommendation for 1LT Niles, please let me know and I will coordinate the logistics to make it happen.

Very Respectfully,

[REDACTED]

CF:
OSJA, 1st Infantry Division

[REDACTED]
Trial Defense Counsel

003380



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
Headquarters, Combat Maneuver Training Center

Dear [REDACTED]:

I am writing this memorandum as part of my continuing representation of 1LT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, 1LT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

In or out of the Army, this conviction is going to greatly impede 1LT Niles' future. If the conviction remains on his record, he will likely lose his security clearance. This will prevent him from continuing to serve as a member of the MP Corps. It will also eliminate many other options that he would have within the military. As a civilian, however, this conviction will have even more serious consequences. For instance, 1LT Niles will likely be unable to use his Masters in counseling because he would have a record.

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Very Respectfully,

CF:
OSJA, 1st Infantry Division

[REDACTED]
[REDACTED]
Trial Defense Counsel

003381



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
Headquarters, 7th Army Training Command

Dear [REDACTED]:

I am writing this memorandum as part of my continuing representation of 1LT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, 1LT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

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[REDACTED],

[REDACTED]

CF:
OSJA, 1st Infantry Division

[REDACTED]
Trial Defense Counsel

003382



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
Headquarters, 98th ASG

Dear [REDACTED]:

I am writing this memorandum as part of my continuing representation of 1LT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, 1LT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

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Very Respectfully,

[REDACTED]

CF:
OSJA, 1st Infantry Division

[REDACTED]
Trial Defense Counsel

003383



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
Headquarters, 98th ASG

Dear [REDACTED]:

I am writing this memorandum as part of my continuing representation of 1LT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, 1LT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

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Very Respectfully,

[REDACTED]

[REDACTED]

Trial Defense Counsel

CF:
OSJA, 1st Infantry Division

003384



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
Region VIII, Vilseck Branch Office
APO AE 09112

7 September 2004

[REDACTED]
U.S. Army Medical Activity

Dear [REDACTED]:

I am writing this memorandum as part of my continuing representation of 1LT Glenn A. Niles, Jr. to respectfully ask you for your support in getting clemency for my client.

As you learned at his court-martial, 1LT Niles now has a federal criminal conviction on his civilian record, and a court-martial conviction in his military record. I am petitioning the General Court-Martial Convening Authority (BG Williams, Commander of 7th ATC) to set aside this conviction IAW Rule for Court Martial (RCM) 1107(c)(2)(A). I will be asking him to issue the reprimand in its place.

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Very Respectfully,

[REDACTED]

[REDACTED]

Trial Defense Counsel

CF:
OSJA, 1st Infantry Division

003385

RECORD OF PROCEEDINGS

003386

DEPARTMENT OF THE ARMY
Headquarters, Seventh Army Training Command
Office of the Staff Judge Advocate
APO Army Europe 09036

AETV-BGJA-CLD

MEMORANDUM FOR Record of Trial

SUBJECT: Receipt for Staff Judge Advocates Recommendation and Record of Trial

1. Enclosed is a copy of the Staff Judge Advocate's Recommendation and Record of Trial in your case. Please sign and date the acknowledgement below and fax receipt to our office at [REDACTED] 6757.
2. 1105 matters are due to this office ten calendar days from the date this receipt of service is delivered to your defense counsel.

[REDACTED]

25 Jan 05

NCOIC, Military Justice

I hereby acknowledge receipt of the above documents on

Glenn A. Niles, Jr.
28 Jan 2005

GLENN A. NILES, JR.
1LT, USA

003387

DEPARTMENT OF THE ARMY
Seventh Army Training Command
Office of the Staff Judge Advocate
APO Army Europe 09036

AETV-BGJA

MEMORANDUM FOR Record

SUBJECT: Receipt for Staff Judge Advocate's Recommendation

1. Enclosed is a copy of the Staff Judge Advocate Post Trial Recommendation and Record of Trial in the General Court-Martial of U.S. v. 1LT Glenn A. Niles, Jr..
2. Please sign and date the acknowledgment and fax the receipt to our office at [REDACTED]-6757.

Encls
as

[REDACTED]
NCOIC, Military Justice

25 Jan 05

I hereby acknowledge receipt of the above named documents on 27 Jan 2005

[REDACTED]
[REDACTED]
[REDACTED]
Defense Counsel

003388

The first system of musical notation for 'The Rose Tree'. It consists of a single staff with a treble clef and a key signature of one flat (B-flat). The melody begins with a quarter note G4, followed by a quarter note A4, and then a quarter note B-flat4. The system ends with a double bar line.

| PAGE NUMBER | JUDGE'S INITIALS | PAGE NUMBER | JUDGE'S INITIALS | PAGE NUMBER | JUDGE'S INITIALS | PAGE NUMBER | JUDGE'S INITIALS |
|----------------|---------------------|----------------|---------------------|----------------|---------------------|----------------|---------------------|
|----------------|---------------------|----------------|---------------------|----------------|---------------------|----------------|---------------------|

[illegible]

NOTICE: The above page(s) (has) (have) correction(s). A copy of each corrected page must be inserted into all copies of the record of trial.

Signature of Military Judge:

Date: 30 Dec 04

FHT Form 27-X22 (SJA) 1 NOV 94

003389

***** MILITARY JUDGES' ERRATA SHEET *****

UNITED STATES V. 1LT Glenn A. Niles, Jr.

MILITARY JUDGE: [REDACTED] (Pages 14 – 245)

[illegible]

NOTICE: The above page(s) (has) (have) correction(s). A copy of each corrected page must be inserted into all copies of the record of trial.

Signature of Military Judge:

FHT Form 27-X22 (SJA) 1 NOV 94

Date:

24 Jan 05

003390

ERRATA SHEET (Fassler)

CASE NAME:

U.S. V. Niles, Glenn A. Jr.

UNIT:

615th MP Company

TYPE:

GCM

DATES:

9 Jun and 1 Jul 04

TC:

[REDACTED]

DC:

[REDACTED]

MJ:

[REDACTED]

MJ:

NA

To TC: 22 Oct 04

To DC: 22 Oct 04

To MJ:

Returned:

To 2nd MJ:

NA

Returned: 12 Dec 04

Returned:

Authenticated:

CORRECTIONS:

| Page | Line | Change From: | Change To: | Remarks: |
|------|------|--------------|------------|----------|
| 58 | 13 | [REDACTED] | [REDACTED] | N/A |
| 63 | 6 | You | Your | N/A |
| 208 | 13 | egine | equal | N/A |
| 209 | 13 | plague | play | N/A |
| 209 | 17 | plague | play | N/A |

No other changes

Page: 1 of 1

Reviewers Initials: [REDACTED]

003392

ERRATA SHEET (Fassler)

| | | | | |
|--|--------------------------|----------------------------------|---------------------|-------------------------------------|
| CASE NAME: U.S. V. Niles, Glenn A. Jr. | | UNIT: 615th MP Company | TYPE: GCM | DATES: 9 Jun and 1 Jul 04 |
| TC: [REDACTED] | DC: [REDACTED] | MJ: [REDACTED] | | MJ: NA |
| To TC: 22 Oct 04 | To DC: 22 Oct 04 | To MJ: [REDACTED] | | To 2nd MJ: NA |
| Returned: | Returned: | Returned: | | Authenticated: |

CORRECTIONS:

[illegible]

RECORD OF TRIAL

Of

NILES, Glenn A. Jr.

(Name: Last, First, Middle Initial)

(Social Security Number)

First Lieutenant

(Rank)

615th MP Co

(Unit/Command Name)

U.S. Army

(Branch of Service)

APO AE 09114

(Station or Ship)

BY

GENERAL

COURT-MARTIAL

Convened by COMMANDER

(Title of Convening Authority)

Headquarters, 7th Army Training Command

(Unit/Command of Convening Authority)

Tried at

Wuerzburg and Vilseck, Germany

(Place or Places of Trial)

ON

9 Jun and 1 Jul 04

(Date or Dates of Trial)

| INDEX | RECORD |
|-----------------------------|------------------------------------|
| Article 39(a) Sessions: | |
| On 9 Jun 04 | R- 1 |
| On 1 Jul 04 | R- 14, 81, 157, 205, 232, 239, 243 |
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| Challenges | -- |
| Arraignment | R- 7 |
| Motions | -- |
| Pleas | R- 15 |
| Prosecution evidence | R- 18 |
| Defense evidence | -- |
| Instructions on findings | -- |
| Findings | R- 48 |
| Prosecution evidence | R- 92 |
| Defense evidence | R- 93 |
| Sentence | R- 241 |
| Appellate rights advisement | R- 244 |
| Proceedings in revision | -- |

003393

TESTIMONY

| Name of Witness (Last, First, Middle Initial) | Direct and Redirect | Cross and Recross | Court |
|---|---------------------|-------------------|-------|
| Prosecution | | | |
| N/A | | | |
| Defense | | | |
| [REDACTED] | 92, 110 | 102 | -- |
| [REDACTED] | 112, 116 | 115 | -- |
| [REDACTED] | 118 | 123 | 127 |
| [REDACTED] | 128, 134 | 133, 135 | -- |
| [REDACTED] | 137, 146 | 144, 147 | -- |
| [REDACTED] | 148, 154 | 152 | |
| [REDACTED] | 162, 186 | 174, 182 | 178 |
| [REDACTED] | 187 | 189 | -- |
| [REDACTED] | 190 | 193 | -- |
| [REDACTED] | 195 | -- | -- |
| Accused Unsworn | 203 | -- | -- |
| Court | | | |
| N/A | | | |

EXHIBITS ADMITTED IN EVIDENCE

| Number or Letter | Description | Page Where - | |
|------------------|---|--------------|----------|
| | | Offered | Admitted |
| PE 1 | Stipulation of Fact | 18 | 21 |
| PE 2 | Accused's ORB | 55 | 55 |
| PE 3 | Accused's OER | 55 | 55 |
| DE A | Good soldier book | 55 | 56 |
| DE B | Audiocassette tape of Accused's unsworn at 32 hearing | 157 | 158 |
| DE C | Letter from [REDACTED] | 158 | 159 |
| AE I | OTP with Quantum | 35 | -- |
| AE II | Notice of Forum and Plea | 15 | -- |
| AE III | Flyer | 53 | -- |
| AE IV | Sentencing worksheet | 53 | -- |
| AE V | Question [REDACTED] | 127 | -- |
| AE VI | Question [REDACTED] | 178 | -- |
| AE VII | Question [REDACTED] | 178 | -- |
| AE VIII | Question [REDACTED] | 180 | -- |
| AE VIX | Post trial and appellate rights | 244 | -- |

003394

COPIES OF RECORD ¹

_____ copy of record furnished the accused or defense counsel as per attached certificate or receipt.
_____ copy(ies) of record forwarded herewith.

RECEIPT FOR COPY OF RECORD ²

I hereby acknowledge receipt of a copy of the record of trial in the case of Unites States v. _____,

Delivered to me at _____ this _____ day of _____, 20____,

(Signature of accused)

I hereby acknowledge receipt of a copy of the record of trial in the case of Unites States v. _____,

Delivered to me at _____ this _____ day of _____, 20____,

(Signature of accused)

¹ For instructions as to preparation of copies of record, see back cover or appendices 13 and 14, MCM, 2000.

² If copy of record prepared for accused contains matters requiring security protection, see RCM 1104(b)(1)(D), MCM 2000

DD Form 490, Oct 84, Page 2

003395

PROCEEDINGS OF A GENERAL COURT-MARTIAL

The military judge called the Article 39(a) session to order at 1215, 9 June 2004, at Leighton Barracks, Wuerzburg, Germany, pursuant to the following orders:

Court-Martial Convening Order Number 1, Headquarters, Seventh Army Training Command, APO Army Europe, dated 25 February 2004, as amended by Court-Martial Convening Order Number 8, same headquarters, dated 23 June 2004.

[END OF PAGE]

There were no Court-Martial Convening Orders for the year 2003.

CORRECTED COPY

**DEPARTMENT OF THE ARMY
HEADQUARTERS, SEVENTH ARMY TRAINING COMMAND
UNIT 28130
APO AE 09114-8130**

**COURT-MARTIAL CONVENING ORDER
NUMBER 1**

25 February 2004

A general court-martial is convened with the following members:

[REDACTED], HHC, 11th Avn Regt
[REDACTED], Spt Co, 7th Army CATC
[REDACTED], 6-52 ADA
[REDACTED], 7th ATC
[REDACTED], HHC, 98th ASG
[REDACTED], Rear Det, 280th PSB
[REDACTED], HHC, 12th Avn Bde
[REDACTED], CMTC
[REDACTED], HHC, 98th ASG
[REDACTED], Co B, 17th Sig Bn
[REDACTED], HHB, 1-6 FA
[REDACTED], HHC, 100th ASG

If the accused submits a request pursuant to Article 25(c), UCMJ, that enlisted members serve on the court-martial, the above named officer members not named below are excused, and the members will be as follows:

[REDACTED], HHC, 11th Avn Regt
[REDACTED], Spt Co, 7th Army CATC
[REDACTED], HB, 6-52 ADA
[REDACTED], HHC, 7th ATC
[REDACTED], HHC, 98th ASG
[REDACTED], HHC, CMTC
[REDACTED], HHC, 11th Avn Regt
[REDACTED], HHC, 1-63 AR
[REDACTED], 7th ATC NCO ACADEMY
[REDACTED], Spt Co, 7th Army CATC
[REDACTED], HHC, 100th ASG
[REDACTED], HHC, 100th ASG

BY COMMAND OF BRIGADIER GENERAL WILLIAMS:

DISTRIBUTION:

Each Individual Concerned (1)
CDR, 7th ATC, ATTN: AETV-BGJA-CLD (1)
Record of Trial (1)
F-105 (1)
Reference Set (1)

[REDACTED]
[REDACTED]
[REDACTED]
Chief, Military Justice

003397

DEPARTMENT OF THE ARMY
HEADQUARTERS, SEVENTH ARMY TRAINING COMMAND
UNIT 28130
APO AE 09114-8130

COURT-MARTIAL CONVENING ORDER
NUMBER 8

23 June 2004

The following members are detailed to the general court-martial convened by Court-Martial Convening Order Number 1, same headquarters, dated 25 February 2004:

[REDACTED], 7th ATC
[REDACTED], HHC, CMTC
[REDACTED], HHC, 7th CSG
[REDACTED], CMTC

VICE:

[REDACTED], HHC, 12th Avn Bde
[REDACTED], HHC, CMTC
[REDACTED], HHC, 1-6 FA
[REDACTED], HHC, 100th ASG

For the trial of United States v. 1LT Glenn A. Niles, Jr., 615th Military Police Company, APO AE 09114.

BY COMMAND OF BRIGADIER GENERAL WILLIAMS:

DISTRIBUTION:

Each Individual Concerned (1)
Record of Trial (1)
Record Set (1)
Reference Set (1)

[REDACTED]
[REDACTED]
[REDACTED]
Chief, Military Justice

003398

1 MJ: Please be seated. This Article 39(a) session is called to
2 order.

3 TC: This court-martial is convened by Court-Martial Convening
4 Order Number 1, Headquarters, Seventh Army Training Command, dated 25
5 February 2004, copies of which have been furnished to the military
6 judge, counsel, and the accused and which will be inserted at this
7 point in the record.

8 The charges have been properly referred to this court for
9 trial and were served on the accused on 2 June 2004.

10 The prosecution is ready to proceed with the arraignment in
11 this case of United States versus First Lieutenant Glenn A Niles.

12 The accused and the following persons detailed to this
13 court are present:

14 [REDACTED], MILITARY JUDGE;

15 [REDACTED], TRIAL COUNSEL;

16 [REDACTED], ASSISTANT TRIAL COUNSEL; and

17 [REDACTED], DEFENSE COUNSEL.

18 The members are absent.

19 [REDACTED] has been detailed as the reporter for
20 this court and has previously been sworn.

21 All members of the prosecution have been detailed to this
22 court-martial by the acting staff judge advocate [REDACTED].

23 All members of the prosecution are qualified and certified under

1 Article 27(bravo) and sworn under Article 42(alpha), Uniform Code of
2 Military Justice. No member of the prosecution has acted in any
3 manner that might tend to disqualify us in this court-martial.

4 MJ: Thank you.

5 Good afternoon, Lieutenant Niles.

6 ACC: Good afternoon.

7 MJ: You are represented, currently, by [REDACTED]. He is
8 your detailed military defense counsel, and he is provided to
9 represent you free of charge at this court-martial. You also have
10 the right to request a different military lawyer to represent you,
11 and if that person were reasonably available, then he or she would be
12 also detailed to your case to represent you free of charge. If your
13 request for another military lawyer were granted, however, you would
14 not normally have the right to keep the services of [REDACTED]
15 because you're normally entitled to only one military lawyer. You
16 could ask [REDACTED] boss to allow you to keep him on the case
17 with the other military lawyer, but your request would not have to be
18 granted.

19 In addition, you, of course, have the right to hire a
20 civilian attorney. A civilian lawyer would have to be provided by
21 you at no expense to the government. If you were represented by a
22 civilian lawyer, you could keep [REDACTED] on your case to assist

1 your civilian lawyer, or you could release [REDACTED] and be
2 represented solely by your civilian attorney.

3 Those are basically your rights to counsel. Do you
4 understand all of those?

5 ACC: Yes, Your Honor.

6 MJ: Do you have any questions about them?

7 ACC: Not at this time, Your Honor.

8 MJ: By whom do you wish to be represented?

9 ACC: By [REDACTED] at this time, Your Honor.

10 MJ: By [REDACTED] alone then?

11 ACC: At this time, Your Honor.

12 MJ: All right.

13 [REDACTED], please indicate your detailing and
14 qualifications for the record.

15 DC: Yes, Ma'am.

16 I've been detailed to this court-martial by [REDACTED]
17 [REDACTED] the senior defense counsel. I am qualified and certified
18 under Article 27(bravo), sworn under Article 42(alpha) of the Uniform
19 Code of Military Justice. I have not acted in any manner, which
20 might tend to disqualify me from this court-martial.

21 MJ: Thank you, and let me just tell you, Lieutenant Niles,
22 given those rights that I've just told you, if you do choose to
23 request another individual military counsel or to hire a civilian

1 attorney, then just please notify the court at some point so that I
2 can understand who will be at the court-martial. All right?

3 ACC: Yes, Your Honor.

4 MJ: Thanks.

5 All right, I too have been properly certified, sworn, and
6 detailed to this court-martial. Counsel for both sides appear to
7 have the requisite qualifications and all personnel required to be
8 sworn have been sworn.

9 Trial Counsel, please announce the general nature of the
10 charges in this case.

11 TC: Your Honor, the general nature of the charges in this case
12 are one charge and three specifications of a violation of Article 93
13 for cruelty and maltreatment; one charge and one specification of a
14 violation of Article 133, conduct unbecoming an officer and a
15 gentlemen. The charges were preferred by [REDACTED]
16 [REDACTED] forwarded with recommendations as to disposition by [REDACTED]
17 [REDACTED], and investigated by [REDACTED]
18 [REDACTED].

19 MJ: So there was an Article 32 investigation held in this case?

20 TC: Yes, Your Honor.

21 MJ: All right, I'm not aware of any matter that may be a ground
22 for challenge against me. Does either side desire either to question
23 me or challenge me?

1 TC: No, Ma'am.

2 DC: No, Ma'am.

3 MJ: All right. What I want to do now, Lieutenant Niles, is go
4 over with you your rights as to how you can be tried at this court-
5 martial. You have the right to be tried by a court consisting of at
6 least five officer members. None of those officers would come from
7 your company and none of them would be junior in rank to you.

8 Do you understand what I've said?

9 ACC: Yes, Your Honor.

10 MJ: All right. If you were tried by a court with members, the
11 members will vote by secret written ballot and two-thirds of the
12 members must agree before you could be found guilty of any offense.
13 If you were found guilty, -then two-thirds must also agree in voting
14 on a sentence, and if that sentence included confinement for more
15 than 10 years, then three-fourths would have to agree.

16 You also have the right to request a trial by military
17 judge alone, and if approved, there will be no court members and the
18 judge alone will decide whether you are guilty or not guilty, and if
19 you are found guilty, the judge alone will determine your sentence.

20 Do you understand the difference between trial before
21 members and trial before a military judge alone?

22 ACC: Yes, Your Honor.

1 MJ: [REDACTED], are you prepared to enter a choice of forum
2 today?

3 DC: No, Your Honor, we ask that we be allowed to defer that
4 until a later date.

5 MJ: All right, your request to defer choice of forum is
6 granted. What that means, Lieutenant Niles, is I'll allow you to
7 continue to talk with your counsel, but at sometime prior to the date
8 that we set for trial, I'll expect that your counsel will notify the
9 court and the government of your choice as to how you want to be
10 tried. All right?

11 ACC: Yes, Your Honor.

12 MJ: The accused will now be arraigned.

13 TC: All parties to the trial have been furnished with a copy of
14 the charges. Does the accused want them read?

15 DC: Your Honor, the accused waives reading of the charges.

16 MJ: The reading may be omitted.

17 [THE CHARGE SHEET FOLLOWS AND IS NOT A NUMBERED PAGE.]

18 [END OF PAGE]

19

I. PERSONAL DATA

| | | | | |
|---|--------------------------------------|--------------------------------------|-------------------------------------|----------------------------|
| 1. NAME OF ACCUSED (Last, First, MI) NILES, Glenn A., Jr. | | 2. SSN 09114 dmc 25 MAY 04 | 3. GRADE OR RANK 1LT | 4. PAY GRADE O-2 |
| 5. UNIT OR ORGANIZATION 615th Military Police Company, APO AE 09302 | | | 6. CURRENT SERVICE | |
| | | | a. INITIAL DATE 10 May 01 | b. TERM 4 yrs |
| 7. PAY PER MONTH | | | 8. NATURE OF RESTRAINT OF ACCUSED | |
| a. BASIC \$ 3421.50 | b. SEA/FOREIGN DUTY \$ 225 | c. TOTAL \$ 3646.50 | N/A | |
| | | | 9. DATE(S) IMPOSED N/A | |

II. CHARGES AND SPECIFICATIONS

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

SPECIFICATION 1: In that 1LT Glenn A. Niles, Jr., U.S. Army, at or near the Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, was cruel toward and did maltreat [REDACTED], a person subject to his orders, by striking him in the stomach with a closed fist.

SPECIFICATION 2: In that 1LT Glenn A. Niles, Jr., U.S. Army, at or near the Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, was cruel toward and did maltreat [REDACTED], a person subject to his orders, by striking him in the stomach with a closed fist.

SPECIFICATION 3: In that 1LT Glenn A. Niles, Jr., U.S. Army, at or near the Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, was cruel toward and did maltreat [REDACTED], a person subject to his orders, by kicking him in the shoulder.

CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 133

THE SPECIFICATION: In that 1LT Glenn A. Niles, Jr., U.S. Army, did, at or near Al Taji Police Station, Baghdad, Iraq, on or about 30 July 2003, while a platoon leader in the 615th Military Police Company, and in the presence of [REDACTED], and [REDACTED], wrongfully and dishonorably grab [REDACTED] by the neck and strike him in the stomach with a closed fist, wrongfully and dishonorably strike [REDACTED] in the stomach with a closed fist, and while being detained by [REDACTED], wrongfully and dishonorably kick [REDACTED] in the shoulder, all to the disgrace of the Officer's Corps, and the Armed Forces.

III. PREFERRAL

| | | |
|--|------------------------|--|
| 11a. NAME OF ACCUSER (Last, First, MI) [REDACTED] | b. GRADE [REDACTED] | c. ORGANIZATION OF ACCUSER 615th Military Police Company |
| d. SIGNATURE OF ACCUSER [REDACTED] | | e. DATE 30 SEP 03 |

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 30th 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.

Typed Name of Officer

18th Military Police Brigade

Organization of Officer

Grade

Article 136(a), UCMJ - Trial Counsel

Official Capacity to Administer Oath

(See R.C.M. 307(b) - must be a commissioned officer)

Signature

003405

12.

On 30 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

615th Military Police Company
Organization of Immediate Commander

[REDACTED]
Grade

[REDACTED]
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1245 hours, 30 September, 2003 at

Warrior Palace, 709th Military
Designation of Command or

Police Battalion, Baghdad, Iraq, APO AE 09302
Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE: ¹

[REDACTED]
Typed Name of Officer

Battalion Commander
Official Capacity of Officer Signing

[REDACTED]
Grade

[REDACTED]
Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY
Headquarters, 7th Army Training Command

b. PLACE
Grafenwoehr, Germany

c. DATE
2 June 2004

Referred for trial to the General court-martial convened by Court-Martial Convening Order Number 1

dated 25 February 20 04, subject to the following instructions: ² none

By COMMAND of BRIGADIER GENERAL ROBERT M. WILLIAMS:
Command or Order

[REDACTED]
Typed Name of Officer

Chief, Military Justice
Official Capacity of Officer Signing

[REDACTED]
Grade

[REDACTED]
Signature

15.

On 2 JUNE, 20 2004, I (caused to be) served a copy hereof on (each of the above named accused).

[REDACTED]
Typed Name of Trial Counsel

[REDACTED]
Grade or Rank of Trial Counsel

[REDACTED]
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.

003406

1 TC: The charges are signed by [REDACTED] a
2 person subject to the Code as accuser and are properly sworn to
3 before a commissioned officer of the armed forces authorized to
4 administer oaths and are properly referred to this court-martial by--
5 for trial by Brigadier General Robert Williams, the convening
6 authority.

7 MJ: Very well. Before I ask for motions and plea, let me put
8 on the record the substance of an 802 held in chambers just a few
9 minutes ago. Present were all three counsel and myself.

10 We discussed potential trial dates in this case, and I was
11 told by the defense that they intend, today, to file a speedy trial
12 motion.

13 DC: That's correct, Your Honor.

14 MJ: Right, and government and defense know my policy on a
15 speedy trial motion is to hold a hearing as quickly as possible since
16 we don't want the court to be responsible for the delay. Given that,
17 I will be on leave starting Monday, therefore, the judge that will
18 hear the speedy trial motion will be [REDACTED].
19 She will hear your speedy trial motion on Monday at 1000 hours in
20 Vilseck.

21 We also discussed setting a potential trial date in the
22 event that that motion is denied, and agreed on 1 July as the trial
23 date. Given that [REDACTED] will be the judge for purposes of

1 the pretrial motion, she will also be the judge for trial on the 1st
2 of July.

3 I was told by counsel that the three Iraqis are not likely
4 to be produced for trial, but that the government hopes to prove the
5 case with other eyewitnesses, and I was told by both counsel that
6 there is an issue with regard to multiplicity given United States
7 versus Cherukuri in that either the Charge I specifications will
8 merge into the 133 offense or vice versa.

9 That's all my notes show as to what we discussed. Do
10 counsel have anything to add?

11 TC: Just one point, Your Honor. We are still looking for the
12 three Iraqi alleged victims of this crime. I just--most likely they
13 will not be found, but we are still making attempts to locate them.

14 MJ: Got it.

15 DC: Nothing to add, Your Honor, based on your synopsis.

16 MJ: All right.

17 Lieutenant Niles, Counsel, please rise.

18 [The accused and his counsel did as directed.]

19 MJ: First Lieutenant Glenn A. Niles, Jr., how do you plead?
20 Before receiving your plea, I advise you that any motions to dismiss
21 or to grant any other appropriate relief should be made at this time.
22 Your defense counsel will speak for you.

1 DC: Thank you, Your Honor. We've already discussed the issue
2 with the motion we plan to present later on this afternoon, and we
3 ask that we be allowed to defer entrance of pleas until a later date
4 as well.

5 MJ: Very well. Please be seated.

6 [The accused and his counsel did as directed.]

7 MJ: Your request is granted. So the way I see it, there are
8 two potential motions. Certainly there will be a speedy trial motion
9 litigated on Monday, but there may also be a multiplicity argument if
10 you and the government cannot agree on action, correct?

11 DC: That's correct, Your Honor.

12 MJ: All right, so those are the two dates you all are working
13 with, 14 June, Monday, in Vilseck beginning at 1000 will be the
14 speedy trial motion. Defense I'll hold you to your word to get it
15 to--to get the motion to--better get it to me and Colonel Browne
16 tonight.

17 DC: Yes, Ma'am.

18 MJ: Government, get your response as quickly as possible. I
19 know she'll be in over the weekend, so even if it's Saturday get it
20 to her, okay?

21 TC: Yes, Ma'am.

22 DC: And I'll file that electronically, Your Honor, is that the
23 best way?

1 MJ: Yes, and include with it, please, a time line.
2 DC: Yes, Ma'am.
3 MJ: All right?
4 DC: Absolutely.
5 MJ: And then on the 1st of July, we're setting it for 0900
6 given that I think I was told by counsel that it may be a panel case,
7 so go ahead and start early in the morning. All right?
8 DC: Yes, Your Honor.
9 TC: Yes, Ma'am.
10 MJ: All right.
11 All right, Lieutenant Niles, what we've done here today is
12 called an arraignment, that's the legal term for the first pretrial
13 session of any court-martial. As the accused in a court-martial, you
14 have an absolute right to be present at every session of your court
15 and that's whether it's a pretrial session, like we held this
16 morning, or the trial itself, which we've set for the 1st of July or
17 even any post trial sessions. The one exception to your right to be
18 present is if you were to absent yourself without leave, that is, go
19 AWOL between now and the dates that we've set for trial, then the
20 government could go ahead and opt to try the case even though you are
21 absent. That'd be a very bad situation for Captain Stelle. He'd be
22 defending an empty chair. I would enter a plea of not guilty for you

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PAGE

003411

REDACTED
COPY

003412

COURT-MARTIAL RECORD

NAME NILES, GLENN A., JR. ILT

SSN _____

ACTIONS CODED:

INITIAL _____

ACCA _____

FINAL _____

COMPANION(S):

ASSIGNED TO:

PANEL _____

~~EXAM-DIV~~ ✓

ACCA CLERK OF COURT

RETURN THIS FILE TO:

OFFICE OF THE CLERK OF COURT

US ARMY JUDICIARY

901 NORTH STUART STREET, SUITE 1200

ARLINGTON, VA 22203-1837

VOL II OF II VOL(S)

ARMY 20040683

VERBATIM¹
RECORD OF TRIAL²
 (and accompanying papers)

OF

NILES, Glenn A., Jr.

(NAME: Last, First Middle Initial)

615th MilitaryPolice Company

(unit/Command Name)

(Social Security Number)

US Army

(Branch of Service)

First Lieutenant

(Rank)

APO AE 09114

(Station or Ship)

BY

GENERAL COURT-MARTIALCONVENED BY COMMANDING GENERAL

(Title of Convening Authority)

Headquarters, Seventh Army Training Command

(Unit/Command of Convening Authority)

TRIED AT

Wuerzburg and Vilseck, Germany

(Place or Places of Trial)

ON

9 Jun and 1 Jul 04

(Date or Dates of Trial)

COMPANION CASES:

RECEIVED
 CLERK OF COURT
 2005 MAR -7 A 11:48
 US ARMY JUDICIARY

¹ Insert "verbatim" or summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records only.)

² See inside back cover for instructions as to preparation and arrangement.

1 to all the charges and specifications, and we would hold a trial even
2 in your absence.

3 Do you understand all that?

4 ACC: Yes, Your Honor.

5 MJ: All right. I don't expect that you're going to go AWOL, in
6 fact, quite the contrary. I tell that to everyone who has been
7 arraigned because I want you to understand that you're kind of in the
8 final stretch now. It's critical that you stay in close contact with
9 Captain Stelle between now and the date we set for trial so that you
10 can be here to assist in your defense. All right?

11 ACC: Yes, Your Honor.

12 MJ: Now, I note from the charge sheet that Lieutenant Niles is
13 not under any form of restraint. Is that right, Captain Stelle?

14 DC: That's correct, Your Honor.

15 MJ: All right. Is there anything else we can take up here
16 today?

17 TC: Your Honor, just the--I understand we've handled the
18 motions part, but the date plea and forum will be due?

19 MJ: Oh okay. Let's figure that out. All right, if your
20 hearing is on the 14th of June, she's in trial the next 2 days. I
21 expect you'll have an answer at least by the 17th, so let's make
22 close of business Friday the 18th when plea and forum can be given.
23 All right?

1 DC: Yes, Your Honor.

2 TC: Yes, Ma'am.

3 MJ: Clearly though, that is already within the 2 week window,
4 Captain [REDACTED], so to the extent that there are any overseas
5 witnesses that [REDACTED] desires to call on his behalf, please
6 get that information to the government now. All right?

7 DC: Absolutely, Ma'am, thank you.

8 MJ: Thanks. And obviously, Government, to the extent that you
9 intend to deny any of those witnesses and you all need a 39(a) to
10 litigate, then you just get back in touch with Colonel [REDACTED] and
11 she'll set a date, all right?

12 TC: Understood, Ma'am.

13 DC: Yes, Ma'am.

14 MJ: Court is in recess.

15 [The session recessed at 1230, 9 June 2004.]

16 [END OF PAGE]

17

1 [The court-martial was called to order at 1004, 1 July 2004 in
2 Vilseck, Germany pursuant to the orders previously inserted in the
3 record and Court-Martial Convening Order Number 8 dated 23 June 2004
4 Headquarters, 7th Army Training Command, APO Army Europe.]
5 [All parties present when the court recessed were again present with
6 the exception of the military judge Lieutenant Colonel [REDACTED] who
7 was replaced by Colonel [REDACTED] and the court reporter Mrs.
8 [REDACTED] who was replaced by Mr. [REDACTED].]

9 MJ: This Article 39(a) session is called to order. You may be
10 seated.

11 TC: Your Honor, the accused has already been arraigned.

12 MJ: All right, and at the last hearing in this trial,
13 Lieutenant Niles, you were advised that you could be represented by
14 Captain [REDACTED]. Do you recall that?

15 ACC: Yes, Ma'am.

16 MJ: Are you still happy to be represented by him?

17 ACC: Yes, Ma'am.

18 MJ: All right and also at the last hearing in this case, which
19 I believe was on 9 June, Colonel [REDACTED] told you about your forum
20 rights. Do recall that discussion?

21 ACC: Yes, Ma'am.

22 MJ: Are you ready to tell me what forum you choose?

23 DC: Yes--yes, Your Honor.

1 MJ: All right.

2 DC: The accused requests a trial by officer panel for
3 sentencing only, and we have a written request.

4 MJ: All right then, if you've submitted that, I guess we'll
5 make that an appellate exhibit whatever the next one is.

6 [The CR marked the notice of forum and plea as AE II.]

7 MJ: All right, that's Appellate Exhibit II.

8 At this time, will the accused and defense counsel please
9 rise?

10 [The accused and his counsel did as directed.]

11 MJ: Lieutenant Niles, how do you plead, before receiving your
12 plea, I advise you that any motions to dismiss or grant other
13 appropriate relief should be made at this time. Your defense counsel
14 will speak for you.

15 DC: Thank you, Your Honor. The motion previously filed on 9
16 June for dismissal in violation of Rule 707 lack of speedy trial the
17 defense withdraws that motion. Formally I would withdraw that
18 motion, and as far as pleas, Your Honor, the accused pleads as
19 follows:

| | | |
|----|---------------------------------|-------------|
| 20 | To Specification 1, 2 and 3, of | |
| 21 | Charge I the accused pleads: | Not Guilty. |
| 22 | To Charge I: | Not Guilty. |
| 23 | | |
| 24 | To The Specification and | |
| 25 | Charge II the accused pleads: | Guilty. |

1 MJ: Thank you, you may be seated.

2 [The accused and his counsel did as directed.]

3 MJ: All right, we should note for the record that all parties
4 present at the last session are again present in court with the
5 exception of Lieutenant Colonel [REDACTED] who was the military judge at
6 the prior hearing and [REDACTED] the court reporter. Instead we
7 have Mr. [REDACTED] present as the court reporter who's previously been
8 sworn, and I'm Colonel [REDACTED] as military judge. I am not
9 aware of any matter, which might be a ground for challenge against
10 me. Does either side desire to question or challenge me?

11 TC: No, Ma'am.

12 DC: No, Ma'am.

13 MJ: All right, Lieutenant Niles, your counsel has entered a
14 plea of guilty for you to one of the charges and its specification.
15 Your plea of guilty will not be accepted unless you understand its
16 meaning and effect. I'm going to discuss with you your plea of
17 guilty. You may wish to consult with your defense counsel prior to
18 answering any of my questions. If at anytime you have questions,
19 feel free to ask them. If at anytime you need to consult with
20 Captain [REDACTED], you tell me and I'll let you do that.

21 Do you understand?

22 ACC: Yes, Ma'am.

1 MJ: Now a plea of guilty is equivalent to a conviction and is
2 the strongest form of proof known to the law. On your plea alone and
3 without receiving any evidence, this court can find you guilty of the
4 offense to which you pled guilty. Your plea will not be accepted
5 unless you realize that by your plea you admit every act or omission
6 and the element of the offenses [sic] to which you have pled guilty
7 and that you are pleading guilty because you actually are, in fact,
8 guilty. If you do not believe that you are guilty, then you should
9 not for any reason plead guilty.

10 Do you understand what I've said so far?

11 ACC: Yes, Ma'am.

12 MJ: By your plea of guilty, you give up three important rights,
13 but you give up these rights only as to that offense to which you've
14 pled guilty:

15 First, the right against self-incrimination, that is, the
16 right to say nothing at all;

17 Second, the right to a trial of the facts by this court,
18 that is, your right to have this court-martial decide whether or not
19 you are guilty based upon the evidence the prosecution would present
20 and on any evidence you may introduce;

21 Third, the right to be confronted by and to cross-examine
22 any witness called against you.

23 Do you have any questions about any of those rights?

1 ACC: No, Ma'am.

2 MJ: Do you understand that by pleading guilty, you no longer
3 have these rights?

4 ACC: Yes, Ma'am.

5 MJ: If you continue with your guilty plea, you will be placed
6 under oath, and I will question you to determine whether you are, in
7 fact, guilty. Anything you tell me may be used against you in the
8 sentencing portion of the trial.

9 Do you understand that?

10 ACC: Yes, Ma'am.

11 MJ: If you tell me anything that is untrue, your statements may
12 be used against you later for charges of perjury or making false
13 statements.

14 Do you understand that?

15 ACC: Yes, Ma'am.

16 MJ: At this time, I want you to stand and face trial counsel,
17 and Trial Counsel, will you please place the accused under oath.

18 [The accused was sworn.]

19 MJ: Now do we have a stipulation of fact?

20 TC: Yes, Your Honor. It's been previously marked.

21 [The CR handed PE 1 for ID to the MJ.]

22 [END OF PAGE]

23

1 MJ: All right, Lieutenant, I have a stipulation of fact, which
2 has been marked as Prosecution Exhibit 1 for identification, in front
3 of me. Do you have a copy of that in front of you?

4 ACC: Yes, Ma'am.

5 MJ: I'd like you to take a look at the second page. Is that
6 your signature on the page?

7 ACC: Yes, Ma'am.

8 MJ: Did you read this document thoroughly before you signed it?

9 ACC: Yes, Ma'am.

10 MJ: Do both counsel agree to the stipulation and that your
11 signatures appear on the document?

12 TC: Yes, Ma'am.

13 DC: Yes, Your Honor.

14 MJ: Now, Lieutenant Niles, a stipulation of fact is an
15 agreement among the trial counsel, your defense counsel, and you that
16 the contents of the stipulation are true, and if entered into
17 evidence, are the uncontradicted facts in this case. No one can be
18 forced to enter into a stipulation, so you should enter into it only
19 if you truly want to do so.

20 Do you understand this?

21 ACC: Yes, Ma'am.

22 MJ: Are you voluntarily entering into this stipulation because
23 you believe it is in your best interest to do so?

1 ACC: Yes, Ma'am.

2 MJ: Now if I admit this stipulation into evidence, it will be
3 used in two ways:

4 First, I will use it to determine if you are, in fact,
5 guilty of the offense to which you pled guilty;

6 Second, the trial counsel may read it to the court members
7 and they will have it with them when they decide upon your sentence.

8 Do you understand and agree to these uses of the
9 stipulation?

10 ACC: Yes, Ma'am.

11 MJ: Do both counsel also agree?

12 TC: Yes, Ma'am.

13 DC: Yes, Your Honor.

14 MJ: Now, Lieutenant Niles, a stipulation of fact ordinarily
15 cannot be contradicted. If it should be contradicted after I've
16 accepted your guilty plea, I will reopen this inquiry. You should,
17 therefore, let me know if there's anything whatsoever you disagree
18 with or feel is untrue.

19 Do you understand that?

20 ACC: Yes, Ma'am.

21 MJ: At this time, I want you to read your copy of the
22 stipulation silently to yourself as I read it to myself. When you're
23 finished reading it, please look up at me.

1 ACC: Yes, Ma'am.

2 [The MJ and ACC read PE 1 for ID.]

3 [Long pause.]

4 MJ: Lieutenant Niles, have you finished reading it?

5 ACC: Yes, Ma'am.

6 MJ: Is everything in that stipulation true?

7 ACC: Yes, Ma'am.

8 MJ: Is there anything in the stipulation that you do not wish
9 to admit is true?

10 ACC: No, Ma'am.

11 MJ: Do you agree, under oath, that the matters contained in the
12 stipulation are true and correct to the best of your knowledge and
13 belief?

14 ACC: Yes, Ma'am.

15 MJ: Defense Counsel, do you have any objections to Prosecution
16 Exhibit 1 for identification?

17 DC: No objection, Your Honor.

18 MJ: All right, then, Prosecution Exhibit 1 for identification
19 is admitted into evidence subject to my acceptance of the accused's
20 guilty plea.

21 Now, Lieutenant Niles, I'm going to explain the elements of
22 the offense to which you've pled guilty. By "elements", I mean those
23 facts, which the prosecution would have to prove beyond a reasonable

1 doubt before you could be found guilty if you had pled not guilty.
2 When I state each element, ask yourself two things:
3 First, is the element true; and
4 Second, whether you wish to admit that it's true.
5 After I list the elements for you, be prepared to talk to
6 me about the facts regarding the offense.
7 First of all, though, I'd like to get a little background
8 on you. When did you first come into the service?
9 ACC: November 2000--2001, no 2000, correction.
10 MJ: All right, do you remember the day?
11 ACC: No, I just remember that it was November 2000 when I left
12 or arrived at Fort Benning for basic training.
13 MJ: Okay let's see the stipulation says 7 November 2000.
14 ACC: That would be correct, Your Honor.
15 MJ: Okay.
16 DC: The initial----
17 MJ: Captain [REDACTED]
18 DC: I'm sorry. The initial date on the charge sheet is May--10
19 May 2001, that reflects his commissioning date.
20 MJ: All right.
21 DC: Because he enlisted and went to OCS. That time does not
22 reflect on the charge sheet.

1 MJ: Since 7 November 2000 and today, have you been continuously
2 on active duty?

3 ACC: Yes, Ma'am.

4 MJ: Have you had any breaks in service at all?

5 ACC: Negative, Ma'am.

6 MJ: All right. When did you come to Germany?

7 ACC: October of 2001. I believe it was October 5th.

8 MJ: And what unit were you assigned to when you got here?

9 ACC: 615th Military Police Company.

10 MJ: Is that the unit you're assigned to today?

11 ACC: Yes, Ma'am.

12 MJ: All right. All right, I want you to take a look at The
13 Specification of Charge II. There you are charged with the offense
14 of conduct unbecoming an officer due to cruelty and maltreatment of
15 prisoners and that would be a violation of Article 133 of the Uniform
16 Code of Military Justice. The elements of that offense are:

17 One, that [REDACTED] and [REDACTED]
18 [REDACTED] were subject to your orders;

19 Two, that on or about 30 July 2003, at or near Al Taji
20 Police Station, Baghdad, Iraq, you maltreated [REDACTED]
21 [REDACTED] and [REDACTED] by striking and kicking them; and

22 Three, that under the circumstances, your conduct was
23 unbecoming an officer and a gentleman.

1 Subject to the orders of includes persons under the direct
2 or immediate command of the accused. Cruel and maltreatment refers
3 to treatment that when viewed objectively under all the circumstances
4 is abusive or otherwise unwarranted, unjustified, and unnecessary for
5 any lawful purpose and that results in physical or mental harm or
6 suffering or reasonably could have caused physical or mental harm or
7 suffering. Assault or improper punishment may constitute this
8 offense.

9 "Conduct unbecoming an officer and a gentleman" means
10 behavior in an official capacity, which in dishonoring or disgracing
11 the individual as a commissioned officer. "Unbecoming conduct" means
12 misbehavior more serious than slight and of a material and pronounced
13 character. It means conduct morally unfitting and unworthy rather
14 than merely inappropriate or unsuitable misbehavior, which is more
15 than opposed to good taste or propriety.

16 Now do you understand the elements and definitions as I've
17 read them to you?

18 ACC: Yes, Ma'am.

19 MJ: Do you have any questions about any of them?

20 ACC: No, Ma'am.

21 MJ: Do you understand that your plea of guilty admits that
22 these elements accurately describe what you did?

23 ACC: Yes, Ma'am.

1 MJ: Do you believe and admit that the elements and definitions
2 taken together correctly describe what you did?
3 ACC: Yes, Ma'am.
4 MJ: In your own words, I'd like you to tell me why you're
5 guilty of this offense.
6 ACC: Ma'am, I'm guilty of this offense because I did behave in a
7 manner unbecoming an officer. I did strike these personnel.
8 MJ: Well I need you to tell me a little bit more. First of all
9 this was on 30 July 2003?
10 ACC: Yes, Ma'am.
11 MJ: Where were you?
12 ACC: At the [REDACTED] Police Station in Baghdad, Iraq.
13 MJ: Okay and what was your position at that time?
14 ACC: At that time, I was the platoon leader for 1st Platoon.
15 MJ: And what was your position with regard to any of the
16 prisoners there?
17 ACC: At that time, I was the supervisor for both the soldiers
18 and the police station.
19 MJ: And so what were your duties as they applied to any of the
20 prisoners at the police station?
21 ACC: The duties there were to provide oversight for prisoners in
22 the police station provide them with security, clothing, and food.
23 MJ: Okay and who were the three individuals that I named?

1 ACC: I believe they were personnel arrested by the Iraqi police
2 and placed into the detention cell there.

3 MJ: Well do you have any reason to think that those weren't
4 prisoners at the [REDACTED] Police Station on 30 July 2003?

5 ACC: Can you repeat that, Ma'am?

6 MJ: Do you have any reason to think that those three named
7 individuals were not prisoners at the [REDACTED] Police Station on 30
8 July 2003?

9 ACC: No, Ma'am. At the time, I didn't know their names, if
10 that's what you're asking.

11 MJ: All right. Have you since seen information that told you
12 what their names were?

13 ACC: Just in the statements given by the soldiers in the charge
14 sheet.

15 MJ: Okay do you have any reason to doubt that those are the
16 names of the men who were prisoners at [REDACTED] Police Station on that
17 day?

18 ACC: No, Sir [sic], if my soldiers say they were the men, they
19 were the men.

20 MJ: All right, now what was your contact with each of those
21 individuals? First of all, let's talk about what happened to [REDACTED]
22 [REDACTED], and you can refer to the stipulation of fact if you wish,

1 but I want you to tell me what exactly you did, if anything, to that
2 individual, and I assume that's a man.

3 ACC: Ma'am, as stated in the statements given by the soldiers in
4 the charge sheet, that's the gentleman that I struck in the D-Cell.

5 MJ: Okay tell me how you struck him.

6 ACC: With a closed fist, I believe I hit him in the stomach.

7 MJ: Why?

8 ACC: That's a question I've been asking myself for the last year
9 and a half. Out of anger, Ma'am.

10 MJ: Okay had he attacked you?

11 ACC: No, Ma'am.

12 MJ: So there was--you weren't defending yourself?

13 ACC: No, Ma'am.

14 MJ: Were you defending another soldier?

15 ACC: No, Ma'am.

16 MJ: As to [REDACTED], tell me what happened with him.

17 ACC: Once again, Ma'am, I struck him with a closed fist in the
18 stomach.

19 MJ: And tell me why.

20 ACC: It would be the same as before, Ma'am, I believe out of
21 anger.

22 MJ: All right. Had he attacked you?

23 ACC: No, Ma'am.

1 MJ: Had he given you any sense that he was going to attack you?
2 ACC: No, Ma'am.
3 MJ: Had he attacked any of your soldiers?
4 ACC: No, Ma'am.
5 MJ: Had he attacked another prisoner?
6 ACC: I don't know that, Ma'am.
7 MJ: Okay, but I mean to your knowledge---
8 ACC: To my knowledge----
9 MJ: ----had he attacked another prisoner?
10 ACC: ----no, I received no reports on that.
11 MJ: Okay. Would that be true of the first gentleman, [REDACTED]
12 [REDACTED]
13 ACC: To my knowledge, I received no reports that he attacked
14 anyone.
15 MJ: All right. How about [REDACTED]
16 ACC: That's the gentleman that I struck by kicking him, Ma'am.
17 MJ: And where did you kick him?
18 ACC: In the shoulder.
19 MJ: And why did you kick him in the shoulder that day?
20 ACC: Out of anger, Ma'am.
21 MJ: Again, had he attacked you?
22 ACC: No, Ma'am.
23 MJ: Had he sought to attack you?

1 ACC: No, Ma'am.

2 MJ: To your knowledge, had he attacked any of your soldiers?

3 ACC: No, Ma'am.

4 MJ: Had he tried to?

5 ACC: No, Ma'am.

6 MJ: Had he tried to attack any other prisoner?

7 ACC: I received no reports of that, Ma'am.

8 MJ: Okay. To your knowledge had he tried to attack any other
9 prisoner?

10 ACC: No, Ma'am.

11 MJ: Now as an MP officer, do you receive training as to how to
12 deal with prisoners or detainees?

13 ACC: Yes, Ma'am.

14 MJ: Is striking them with a closed fist in either the stomach
15 or kicking them in the shoulder, is that----

16 ACC: No, Ma'am, that is not part of the training.

17 MJ: Okay, so that's not appropriate behavior for an MP officer
18 when dealing with prisoners?

19 ACC: No, Ma'am.

20 MJ: Now you're charged with doing these things and that these
21 things amounted to conduct unbecoming an officer and a gentleman. Do
22 you remember the definition I gave you of conduct unbecoming an
23 officer and a gentleman?

1 ACC: I believe so, Ma'am.

2 MJ: Okay tell me why this conduct was conduct unbecoming an
3 officer and a gentleman.

4 ACC: As stated, Ma'am, it's because it disgraces the individual,
5 um, it disgraced the individual personally, distracted from the
6 conduct of my fellow--of my soldiers at the time, and it's conduct
7 morally unfitting or worthy and it's inappropriate and unsuitable.

8 MJ: Okay. Did these actions by you with respect to any of the
9 prisoners, were there other United States soldiers present when you
10 did this?

11 ACC: Yes, Ma'am.

12 MJ: Were they your subordinates?

13 ACC: Yes, Ma'am.

14 MJ: So was this appropriate behavior by you in front of
15 subordinates?

16 ACC: No, Ma'am.

17 MJ: How do you think that that made your subordinates feel
18 about you in particular as an officer?

19 ACC: [No response.]

20 MJ: At least your behavior that day.

21 ACC: I believe they felt I was a disgrace.

22 [END OF PAGE]

23

1 MJ: If members of the public, either American or Iraqi, learned
2 of your behavior that day, how do you think they'd feel about an
3 officer in the United States Army behaving that way?

4 ACC: The same.

5 MJ: In your mind, did you have any legitimate reason for
6 striking any of these individuals?

7 ACC: No, Ma'am.

8 MJ: I'm sorry, say again.

9 ACC: No, Ma'am.

10 MJ: I think you said earlier that you were angry. Is that
11 right?

12 ACC: Yes, Ma'am.

13 MJ: Can you tell me why you were angry?

14 ACC: Um, just--just the events, Ma'am, just----

15 MJ: Tell me what the events were.

16 ACC: Just--I'd received reports that they attempted to break out
17 of the detention cell.

18 MJ: Go ahead.

19 ACC: I received reports that they attempted to break out of the
20 detention cell.

21 MJ: Had you gotten those reports that day?

22 ACC: No, Ma'am.

23 MJ: When did you get them?

1 ACC: The night before.

2 MJ: Okay, and did you have some reason to think that any of
3 these three individuals had anything to do with that?

4 ACC: Um, I believe that I was told that these were the three
5 that attempted to break out.

6 MJ: Okay. Did that have anything to do with why you struck any
7 of them?

8 ACC: Ma'am, all I can say is that I was angry. Just the fact
9 that they tried to break out it----

10 [Long pause.]

11 MJ: Since you were the platoon leader and supervisor for the
12 police station, were you responsible for the health and safety of any
13 detainees or prisoners that were held there?

14 ACC: Yes, Ma'am.

15 MJ: How many folks could the police station hold as far as
16 prisoners or detainees?

17 ACC: Ah, we tried to keep a minimum, if I recall, we tried to
18 keep it under 20. We were under orders to maybe the second or third
19 day try to empty out our D-Cells by sending them to a higher
20 detention facility by doing the paperwork. Sometimes that did not
21 occur because you know of transportation or logistics means, so I
22 mean we tried to keep the number fairly low for their safety and our
23 safety, Ma'am.

1 MJ: Okay is it fair to say, then, that you were a short-term
2 holding facility?

3 ACC: Yes, Ma'am.

4 MJ: Okay. All right do you admit that [REDACTED], [REDACTED]
5 [REDACTED], and [REDACTED] were subject to your orders?

6 ACC: They were subject to my care. I didn't give them orders,
7 Ma'am. I gave my soldiers orders for the care and the treatment of
8 them.

9 MJ: Well were they under your jurisdiction?

10 ACC: Yes, Ma'am.

11 MJ: If you walked into their cell and told them to do
12 something, did you expect that they would do it?

13 ACC: Yes, Ma'am.

14 MJ: So were they subject to your orders?

15 ACC: Yes, Ma'am.

16 MJ: All right. Do you admit that on or about 30 July 2003, at
17 or near [REDACTED] Police Station in Baghdad, Iraq, you maltreated
18 [REDACTED], [REDACTED] and [REDACTED] by
19 striking and kicking them?

20 ACC: Yes, Ma'am.

21 MJ: Do you admit that under the circumstances, your conduct was
22 unbecoming an officer and a gentleman?

23 ACC: Yes, Ma'am.

1 MJ: Does either counsel believe that any further inquiry is
2 required?

3 TC: No, Ma'am.

4 DC: No, Ma'am.

5 MJ: Trial Counsel, what do you calculate to be the maximum
6 punishment authorized in this case based solely on the accused's
7 guilty plea?

8 TC: Your Honor, a dismissal, 1-year confinement, total
9 forfeiture, and a fine.

10 MJ: Defense?

11 DC: Defense agrees, Your Honor.

12 MJ: All right. Lieutenant Niles, the maximum punishment
13 authorized in this case based solely on your guilty plea is dismissal
14 from the service, total forfeitures, confinement for 12 months, and a
15 fine may also be adjudged. On your plea of guilty alone, this court
16 could sentence you to the maximum punishment, which I've just stated.
17 Do you understand this?

18 ACC: Yes, Ma'am.

19 MJ: Do you have any questions as to the sentence that could be
20 imposed as a result of your guilty plea?

21 ACC: No, Ma'am.

22 MJ: Do we have a pretrial agreement in this case?

1 TC: Yes, Ma'am, it's been given to the court reporter and has
2 been previously marked.
3 [The CR handed AE I to the MJ.]
4 MJ: All right. Lieutenant Niles, do you have a copy of your
5 plea agreement in front of you?
6 ACC: Yes, Ma'am.
7 MJ: All right, that's been marked as Appellate Exhibit I, and
8 that includes both the offer portion and the quantum portion of your
9 plea agreement. Now I want you to look at each of these, that would
10 be page two of the quantum portion and page one of the quantum, I'm
11 sorry, page two of the offer.
12 Did you sign each of these documents?
13 ACC: Yes, Ma'am.
14 MJ: Did you read them thoroughly before you signed them?
15 ACC: Yes, Ma'am.
16 MJ: Do you understand the contents of your pretrial agreement?
17 ACC: Yes, Ma'am.
18 MJ: Now Lieutenant Niles, did anyone force you in anyway to
19 enter into this agreement?
20 ACC: No, Ma'am.
21 MJ: Does this agreement contain all of the understandings or
22 agreements that you have in this case?
23 ACC: Yes, Ma'am.

1 MJ: Has anyone made any promises to you that are not written
2 into this agreement in an attempt to get you to plead guilty?

3 ACC: No, Ma'am.

4 MJ: Counsel, is Appellate Exhibit I the full and complete
5 agreement in this case, and are you satisfied that there are no other
6 agreements?

7 TC: Yes, Ma'am.

8 DC: Yes, Your Honor.

9 MJ: Now Lieutenant Niles, basically a pretrial agreement means
10 that you agree to plead guilty, and in return, the convening
11 authority agrees to take some favorable action in your case usually
12 in the form of a limitation on your sentence.

13 Do you understand that?

14 ACC: Yes, Ma'am.

15 MJ: Now the law requires that I discuss the conditions of your
16 agreement with you, so let's look at the offer portion, that is, the
17 first two pages.

18 Now paragraph 1a says first of all that you've gotten the
19 benefit and advice of your defense counsel and you've--you know that
20 you have a legal and a moral right to plead not guilty, but that you
21 offer to plead ~~guilty~~ to the specifications of Charge I and Charge I,
22 Not Guilty, and to The Specification of Charge II and Charge II,
23 Guilty, and you've done that.

1 Do you have any questions about your agreement as it
2 concerns how you're going to plead?

3 ACC: No questions, Ma'am.

4 MJ: Okay. In 1b, you've agreed to enter into a written
5 stipulation of fact with the trial counsel as to the circumstances of
6 the offenses to which you're pleading guilty, and you've done that as
7 well.

8 Do you have any questions at all about what the stipulation
9 means or your agreement to enter into it?

10 ACC: No, Ma'am.

11 MJ: 1c says, you waive the right to request personal appearance
12 of overseas witnesses to testify on your behalf at trial. Now first
13 of all, did you understand that you could have asked the convening
14 authority, that is, the government to produce witnesses at this trial
15 for you today?

16 ACC: Yes, Ma'am.

17 MJ: And if the convening authority had said no, that you could
18 have then come to the Court, and if the Court had found that the
19 witnesses were relevant and material and necessary, the Court could
20 have said those witnesses should be here.

21 Did you understand that?

22 ACC: Yes, Ma'am.

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1 MJ: And absent this agreement, you didn't have to give up that
2 right.

3 ACC: Understood, Ma'am.

4 MJ: Now are there actually any witnesses that you wanted here
5 today that aren't going to be here today because of this provision?

6 ACC: No, Ma'am.

7 MJ: Okay. Did you also know that there are other ways to get
8 witness information in front of the court, for example, by telephone
9 or by what we call stipulations of expected testimony or just
10 letters?

11 ACC: Yes, Ma'am.

12 MJ: Are you satisfied that whatever means you and Captain
13 [REDACTED] have chosen that will get the appropriate information in front
14 of the panel for them to make an appropriate decision as to your
15 sentence?

16 ACC: Yes, Ma'am.

17 MJ: Now in 1d, you waive the right to make a motion to dismiss
18 all the charges for a violation of Rule for Court-Martial 707, that
19 is, the speedy trial act and withdraw that motion, which was filed on
20 9 June 2004. Now first of all, again, absent this agreement, you're
21 entitled to file any kind of motions you want to file.

22 Do you understand that?

23 ACC: Yes, Ma'am.

1 MJ: Some of the motions you gave up automatically when you
2 didn't make them prior to entering your plea of guilty. Do you
3 remember me saying that?

4 ACC: Yes, Ma'am.

5 MJ: Okay, some motions, however, such as motions to dismiss for
6 lack of jurisdiction or failure to state an offense, can never be
7 given up.

8 Do you understand that this term of your pretrial agreement
9 means that you give up the right to make this particular motion, that
10 is, the one for speedy trial when you pled guilty?

11 ACC: Yes, Ma'am.

12 MJ: In particular, do you understand that this term of your
13 pretrial agreement precludes this court, or any appellate court, from
14 having the opportunity to determine if you're entitled to any relief
15 based upon this particular motion?

16 ACC: Yes, Ma'am.

17 MJ: Now when you elected to give up the right to litigate this
18 motion, did your defense counsel explain this term of your pretrial
19 agreement and the consequences to you?

20 ACC: Yes, Ma'am.

21 MJ: Did anyone force you to enter into this term of your
22 pretrial agreement?

23 ACC: No, Ma'am.

1 MJ: Captain [REDACTED] which side originated the waiver of this
2 motion provision?

3 DC: I--Your Honor, it was part of discussions with the
4 government. Honestly, I truthfully cannot recall which side
5 mentioned it first as far as the waiver goes.

6 MJ: All right.

7 TC: I concur on that, Your Honor. We had discussed the issue
8 for weeks prior to that. I'm not sure which one actually brought it
9 up first, Your Honor.

10 MJ: All right. Lieutenant Niles, do you freely and voluntarily
11 agree to this term of your pretrial agreement in order to receive
12 what you believe to be a beneficial pretrial agreement?

13 ACC: Yes, Ma'am.

14 MJ: Captain [REDACTED] what do you believe to be the factual basis
15 of the motion covered by this term of the pretrial agreement?

16 DC: Yes, Your Honor, as the motion that was previously filed
17 indicated, the passage of time from the original preferral of
18 charges, my evaluation of my research has indicated, however, that
19 there were some significant defense delays that accounted for many of
20 those days, which subtracting those days brought the clock to less
21 than 120 days.

22 MJ: So are you, in effect, telling me that you no longer think
23 that there was a legitimate basis for a speedy trial motion?

1 DC: Yes, Your Honor. I believe it would not have been a
2 frivolous motion, but I believe that our chances of prevailing, as I
3 have explained to Lieutenant Niles, were very, very minor.
4 MJ: All right.
5 DC: Based on the research and the facts that I have been able
6 to collect.
7 MJ: All right, Lieutenant Niles, do you understand that if this
8 motion were made and granted by me then a possible ruling could have
9 been that all the charges against you would have been dismissed, and
10 did you discuss that with Captain [REDACTED]?
11 ACC: Yes, Ma'am.
12 MJ: Now knowing what your defense counsel and I've told you, do
13 you want to give up making this motion in order to get the benefit of
14 your pretrial agreement?
15 ACC: Yes, Ma'am.
16 MJ: All right, do you have any questions about this particular
17 provision of your pretrial agreement?
18 ACC: No, Ma'am.
19 MJ: Now paragraph 2 says in exchange for what we've just talked
20 about, the things that are covered in paragraph 1, the convening
21 authority will take the actions specified in the enclosure, that is,
22 the quantum portion.

1 Paragraph 3 says the offer to plead guilty will not be
2 affected if the military judge amends any specification or charge
3 based upon a motion of the defense, the government, or sua sponte by
4 the military judge. That means if for some reason I modify any of
5 the specifications, this agreement between you and the convening
6 authority is still good.

7 Do you understand that?

8 ACC: Yes, Ma'am.

9 MJ: Do you have any questions?

10 ACC: No, Ma'am.

11 MJ: Paragraph 4 says that there are no promises, conditions, or
12 understandings regarding your proposed plea of guilty that are not
13 contained within these three pages, that is, the offer portion and
14 the quantum portion.

15 Any questions?

16 ACC: No, Ma'am.

17 MJ: Paragraph 5 says you're satisfied with the advice that
18 you've gotten from your defense counsel, that he's advised you of the
19 meaning and effect of your guilty plea, and you fully understand that
20 meaning and effect.

21 Now we've also talked about the meaning and effect of your
22 guilty plea. Do you have any questions at all?

23 ACC: No, Ma'am.

1 MJ: Paragraph 6 says you understand that you may request to
2 withdraw your plea of guilty at any time before it's accepted, but if
3 you do, this agreement's cancelled. This agreement may also be
4 cancelled if:

5 A) You fail to plead guilty;

6 B) You fail to arrive at an agreement with the government
7 on the contents of the stipulation of fact or if that stipulation
8 were modified without your consent; or

9 C) The military judge either refused to accept your guilty
10 plea or changed your guilty plea at some point during the trial.

11 Now none of those things has happened, but if any one of
12 them were to happen, this agreement would be cancelled. It would be
13 gone.

14 Do you understand that?

15 ACC: Yes, Ma'am.

16 MJ: Do you have any questions about any of it?

17 ACC: No, Ma'am.

18 MJ: And paragraph 7 says if before or during trial any
19 specification is amended, consolidated, or dismissed with your
20 consent, this agreement will remain in effect.

21 Any questions about that?

22 ACC: No, Ma'am.

1 MJ: All right. Now the last page of Appellate Exhibit I is the
2 quantum portion of your pretrial agreement, and it states that the
3 convening authority agrees to disapprove any confinement adjudged in
4 excess of 45 days, but he may approve any other lawful punishment.

5 Is that a correct statement of what you and the convening
6 authority agreed to?

7 ACC: Yes, Ma'am.

8 MJ: Now, Lieutenant Niles, you get the benefit of whichever is
9 less each element of the sentence of the court or that contained in
10 your pretrial agreement. If the sentence adjudged by this court is
11 greater than the one provided in the pretrial agreement, the
12 convening authority must reduce the sentence to one no more severe
13 than the one in your pretrial agreement. On the other hand, if the
14 sentence of this court is less than the one in your agreement, the
15 convening authority cannot increase the sentence that he adjudges
16 [sic].

17 Do you understand that?

18 ACC: Yes, Ma'am.

19 MJ: Now if your ETS date arrives while you are serving
20 confinement as part of your sentence, then all of your military pay
21 and allowances will stop on your ETS date. Do you understand that?

22 ACC: Yes, Ma'am.

1 MJ: I'm not sure that that actually would apply here given the
2 quantum provision, but I just wanted to make sure you're aware of
3 that. All right? —

4 ACC: Yes, Ma'am.

5 MJ: Now, Lieutenant Niles, have you had enough time to discuss
6 this agreement with your defense counsel?

7 ACC: Yes, Ma'am.

8 MJ: Are you satisfied with your defense counsel's advice
9 concerning this pretrial agreement?

10 ACC: Yes, Ma'am.

11 MJ: Did you enter into the agreement of your own free will?

12 ACC: Yes, Ma'am.

13 MJ: Has anyone tried to force you to make this pretrial
14 agreement?

15 ACC: No, Ma'am.

16 MJ: Do you have any questions about your pretrial agreement?

17 ACC: No, Ma'am.

18 MJ: Do you fully understand all the terms of the pretrial
19 agreement and how they affect your case?

20 ACC: Yes, Ma'am.

21 MJ: Lieutenant Niles, are you pleading guilty not only because
22 you hope to receive a lighter sentence, but because you are convinced
23 that you are, in fact, guilty?

1 ACC: Yes, Ma'am.

2 MJ: Do counsel for both sides agree with the Court's
3 interpretation of the pretrial agreement?

4 TC: Yes, Ma'am.

5 DC: Yes, Your Honor.

6 MJ: Defense Counsel, have you had enough time and opportunity
7 to discuss this case with Lieutenant Niles?

8 DC: I have, Your Honor.

9 MJ: And Lieutenant Niles, have you had enough time and
10 opportunity to discuss this case with your defense counsel?

11 ACC: Yes, Ma'am.

12 MJ: Have you, in fact, consulted fully with your defense
13 counsel and received the full benefit of his advice?

14 ACC: Yes, Ma'am.

15 MJ: Are you satisfied that your defense counsel's advice is in
16 your best interest?

17 ACC: Yes, Ma'am.

18 MJ: And are you satisfied with your defense counsel?

19 ACC: Yes, Ma'am.

20 MJ: Are you pleading guilty voluntarily and of your own free
21 will?

22 ACC: Yes, Ma'am.

1 MJ: Has anyone made any threat or tried in anyway to force you
2 to plead guilty?

3 ACC: No, Ma'am.

4 MJ: Do you have any questions as to the meaning and effect of a
5 plea of guilty?

6 ACC: No, Ma'am.

7 MJ: Do you fully understand the meaning and effect of your plea
8 of guilty?

9 ACC: Yes, Ma'am.

10 MJ: Do you understand that even though you believe you are
11 guilty, you have the legal and moral right to plead not guilty and to
12 place upon the government of proving [sic] your guilt beyond a
13 reasonable doubt?

14 ACC: Yes, Ma'am.

15 MJ: I want you to take a moment now and consult with your
16 defense counsel and then tell me whether you still want to plead
17 guilty.

18 [The accused did as directed.]

19 ACC: Yes, Ma'am.

20 MJ: So you still want to plead guilty?

21 ACC: Yes, Ma'am.

22 MJ: All right. Lieutenant Niles, I find that your plea of
23 guilty is made voluntarily and with full knowledge of its meaning and

1 effect. I further find that you have knowingly, intelligently, and
2 consciously waived your rights against self-incrimination, to a trial
3 of the facts by a court-martial, and to be confronted by the
4 witnesses against you. Accordingly, your plea of guilty is provident
5 and is accepted. However, I advise you that you may request to
6 withdraw your guilty plea at anytime before the sentence is
7 announced, and if you have a good reason for your request, I will
8 grant it.

9 Will the accused and counsel please rise.

10 [The accused and his counsel did as directed.]

11 MJ: Lieutenant Niles, in accordance with your plea of guilty,
12 this court finds you:

| | | |
|----|------------------------------------|-------------|
| 13 | Of Specification 1 of Charge I: | Not Guilty. |
| 14 | Of Specification 2 of Charge I: | Not Guilty. |
| 15 | Of Specification 3 of Charge I: | Not Guilty. |
| 16 | Of Charge I: | Not Guilty. |
| 17 | | |
| 18 | Of The Specification of Charge II: | Guilty. |
| 19 | Of Charge II: | Guilty. |

20 You may be seated.

21 [The accused and his counsel did as directed.]

22 MJ: Now Lieutenant Niles, we enter into the sentencing phase of
23 the trial where you have the right to present matters in extenuation
24 and mitigation, that is, matters about the offense or yourself, which
25 you want the court to consider in deciding your sentence. In
26 addition to the testimony of witnesses and the offering of

1 documentary evidence, you may yourself testify under oath as to these
2 matters, or you may remain silent in which case, the court members
3 may not draw any adverse inference from your silence.

4 On the other hand, if you desire, you may make an unsworn
5 statement. Because the statement is unsworn, you cannot be cross-
6 examined on it. However, the government may offer evidence to rebut
7 any statement of fact contained in any unsworn statement. An unsworn
8 statement may be made orally, in writing, or both. It may be made by
9 you, by your counsel on your behalf, or by both.

10 Do you understand these rights?

11 ACC: Yes, Ma'am. ***

12 MJ: Now counsel, is the personal data on the front page of the
13 charge sheet correct?

14 DC: Your Honor, the only issue is with the pay. These charges
15 were preferred before the first of the year. Since----

16 MJ: All right. What's the pay?

17 DC: The pay, Ma'am, the basic pay is \$3,421.50.

18 MJ: All right.

19 DC: And there is no longer any sea or foreign pay because he's
20 been redeployed back to Germany.

21 MJ: Okay, it would appear to me, at least the copy that I have,
22 that those changes were made.

23 DC: Okay, Ma'am.

1 MJ: Have they been made on the original?

2 TC: They should have been, Your Honor, yes.

3 MJ: All right. Is there anything else that needs to be

4 corrected on the front page of the charge sheet?

5 DC: Yes, Your Honor. The only other issue is with the term in

6 block 6bravo. Lieutenant Niles--his service obligation after OCS was

7 3 years not 4 years; however, when he arrived in Germany, he was

8 extended for several months so that he would have a 3 year term of

9 service from his arrival in Germany, so his ETS is in October of this

10 year 2004. So his original--his term of service is 3 years plus a

11 extension of about 4 months.

12 MJ: Okay, so 3 years 4 months, is----

13 DC: Yes, Your Honor.

14 MJ: ----what you're saying?

15 DC: Yes, Your Honor.

16 MJ: Okay why don't we change it so it reads 3 years 4 months,

17 so anything else?

18 DC: That's all the inaccuracies there, Your Honor.

19 MJ: Okay.

20 DC: Everything else is accurate.

21 TC: And that was, \$3,421.50 for basic and total correct?

22 DC: That's correct.

1 MJ: All right. Now Captain [REDACTED] has the accused been
2 punished in anyway prior to trial that would constitute illegal
3 pretrial punishment under Article 13?
4 DC: He has not, Your Honor.
5 MJ: Lieutenant Niles, have you spoken with Captain [REDACTED] about
6 Article 13?
7 ACC: Yes, Ma'am.
8 MJ: Do you understand what Article 13 prohibits?
9 ACC: Yes, Ma'am.
10 MJ: Do agree that you've not been punished prior to trial in
11 violation of Article 13?
12 ACC: Yes, Ma'am.
13 MJ: Has your freedom of movement been limited in anyway prior
14 to trial?
15 ACC: No, Ma'am.
16 MJ: Have your pass privileges been withdrawn?
17 ACC: No, Ma'am.
18 MJ: Have you been subject to any sort of sign in requirement?
19 ACC: No, Ma'am.
20 MJ: Captain [REDACTED] are you aware of any limitations placed on
21 Lieutenant Niles' liberty that raise the issue of restriction
22 tantamount to confinement?

1 DC: No, Your Honor. One point before you ask the next question
2 is there was a call in requirement where he called in and checked in
3 with his unit, but that doesn't rise to the level of Article 13
4 violation.

5 MJ: All right.

6 DC: It was not a personal, physical requirement. It was a call
7 in requirement.

8 MJ: Okay and when--when was that call in?

9 ACC: Ever since I've redeployed back to the unit.

10 MJ: Okay and how often do you have to call in?

11 ACC: Ah the previous commander required me to actually stop by
12 the company just to check in, and the current commander asks that I
13 call twice a week.

14 MJ: Okay twice a week?

15 ACC: Yes, Ma'am.

16 MJ: All right, now have, Lieutenant Niles, have you spoken to
17 Captain [REDACTED] about restriction tantamount to confinement?

18 ACC: Yes, Ma'am.

19 MJ: Do you understand the concept of restriction tantamount to
20 confinement?

21 ACC: Yes, Ma'am.

22 MJ: Do you believe that you've been restricted tantamount to
23 confinement?

1 ACC: No, Ma'am.

2 MJ: Now we've already discussed what the maximum punishment in
3 this case is, and that is, dismissal, total forfeitures, confinement
4 for 12 months, and a fine may also be adjudged. Looking at the
5 charge sheet, it does not appear that the accused has been in any
6 sort of pretrial confinement, and so I don't believe that any days of
7 pretrial confinement credit are due. Is that correct?

8 DC: I'm sorry, Your Honor. Yes, that is correct.

9 TC: Yes, Ma'am.

10 MJ: Has the sentence worksheet been marked as an appellate
11 exhibit?

12 TC: It should have been previously marked, Your Honor.

13 [The CR handed the flyer and sentence worksheet to the MJ.]

14 MJ: All right, the flyer has been marked as Appellate Exhibit
15 III. Have both counsel had an opportunity to review the flyer?

16 DC: Yes, Your Honor.

17 MJ: ~~Any~~ objections?

18 DC: No objection to the flyer, Your Honor.

19 MJ: All right, the sentencing worksheet has been marked as
20 Appellate Exhibit IV. Again, have both counsel had an opportunity to
21 review that?

22 TC: Yes, Your Honor.

23 MJ: Any objections?

1 DC: No objection, Your Honor, although I believe it may not
2 include the language about the fine, which you just read, the
3 possibility or the applicability of a fine.

4 MJ: Oh, you're right.

5 DC: We could add that on a recess before we mark it.

6 MJ: Well does either side believe that a fine is actually
7 appropriate in this case?

8 TC: The government----

9 DC: No, Your Honor. We certainly don't believe that a fine is
10 appropriate.

11 TC: The government does not, Your Honor.

12 MJ: All right, then, I will not instruct on a fine.

13 TC: --Yes, Your Honor.

14 Your Honor, one point, if asked to read the maximum
15 sentence in front of the panel, should it just be dismissal, one year
16 of confinement, and don't mention the fine?

17 MJ: Correct.

18 TC: Yes, Your Honor.

19 MJ: All right, does either side have documentary evidence on
20 sentencing, which can be marked, if it hasn't been, and offered at
21 this time?

22 [The CR handed PE 2 and 3 for ID to the MJ.]

23

1 TC: The government has previously marked the ORB and the OER
2 from the timeframe of the crime, and those two documents we wish to
3 be admitted.

4 MJ: Okay. Have you had an opportunity, Captain [REDACTED] to
5 review these?

6 DC: Yes, Your Honor.

7 MJ: Any objections?

8 DC: No, Your Honor, not at all.

9 MJ: All right, so Exhibit 2, which is the ORB is admitted, and
10 Exhibit 3, which is an OER for the period 10 July 2003 through 30
11 March 2004, is also admitted.

12 Defense, do you have any?

13 DC: Your Honor, we have Defense Exhibit Alpha, which is a good-
14 soldier packet, essentially, divided in four sections. I believe the
15 court has been previously shown a copy of this during an 802 session.
16 [The CR handed DE A for ID to the MJ.]

17 MJ: All right, any objection?

18 TC: Your Honor, just previously based on our 802 sessions we
19 had with you, if witnesses testify in person or via phone, then I ask
20 that the letters would be cumulative regarding Colonel [REDACTED] and
21 some of the letters that may be attached in there.

22 DC: Yes, Your Honor, before you even respond, if I may, defense
23 will withdraw those letters assuming--the only witness who is going

1 to present live testimony who has a statement in there is Lieutenant
2 [REDACTED] He will be a telephonic witness. If we make
3 contact and present the evidence, as we will seek to do, then we'll
4 withdraw those letters from the packet. [REDACTED]

5 MJ: All right.

6 DC: Otherwise, no other letters in there come from a witness
7 who will be present.

8 MJ: All right, with that proviso, Captain [REDACTED] any
9 objection?

10 TC: No, Your Honor.

11 MJ: All right then Defense Exhibit A for identification is
12 admitted.

13 Are those all of the exhibits for sentencing?

14 DC: Yes, Your Honor, I may just--if I may one question just a
15 request that we just be allowed to substitute into the record a black
16 and white copy. There are some original colored photographs in that
17 book, and for the record we have made black and white copies that we
18 would ask just that those personal items--photos be--you know we be
19 able to get those back so the accused does not lose those.

20 MJ: I have no problem with you submitting copies, but I'd
21 prefer you get colored copies made.

22 DC: Yes, Ma'am, we can do that.

1 MJ: All right, but do you want a copy of the entire book made
2 of the exhibit? That's all right, you may do that, but anything
3 that's in there in color needs to be copied in color.

4 DC: Yes, Ma'am, and that's fine. We'll just copy the colored
5 photographs. My only concern is that the accused and his family get
6 those photographs back----

7 MJ: That's fine.

8 DC: ----because those are personal items.

9 MJ: Any objection, Government?

10 TC: No, Your Honor.

11 MJ: Okay, no there's no problem doing that. Just make sure you
12 get colored copies----

13 DC: Thank you.

14 MJ: ----of the photos made.

15 DC: We'll provide those to Mr. [REDACTED]

16 MJ: All right. Any other--anything else we need to do before
17 we call the members?

18 TC: No, Ma'am.

19 DC: Nothing from the defense, Your Honor.

20 MJ: Okay Bailiff, would you call the members, please.

21 [The bailiff did as directed.]

22 [The session recessed at 1058, 1 July 2004.]

23

1 [The court-martial was called to order at 1100, 1 July 2004, pursuant
2 to the orders previously inserted in the record and the following
3 orders: Court-Martial Convening Order Number 8 dated 23 June 2004,
4 Headquarters, 7th Army Training Command, APO Army Europe.]

5 MJ: You may be seated. Court is now called to order.

6 TC: The court is convened by Court-Martial Convening Order
7 Number 1, Headquarters, 7th Army Training Command dated 25 February
8 2004, copies of which have been furnished to each court member.

9 The accused and the following persons detailed to this
10 court-martial are present.

11 COLONEL [REDACTED] MILITARY JUDGE;

12 CAPTAIN [REDACTED] TRIAL COUNSEL;

13 LIEUTENANT [REDACTED] ASSISTANT TRIAL COUNSEL;

14 CAPTAIN [REDACTED] DEFENSE COUNSEL; and the court

15 members who are:

16 COLONEL [REDACTED]

17 COLONEL [REDACTED]

18 LIEUTENANT [REDACTED]

19 LIEUTENANT COLONEL [REDACTED]

20 LIEUTENANT COLONEL [REDACTED];

21 LIEUTENANT COLONEL [REDACTED]

22 LIEUTENANT COLONEL [REDACTED]

23 MAJOR [REDACTED]

1 MAJOR [REDACTED]
2 MAJOR [REDACTED]
3 CAPTAIN [REDACTED]
4 CAPTAIN [REDACTED] [sic] [REDACTED] who are the court
5 members.

6 The following persons are absent and have been properly
7 excused:

8 MAJOR [REDACTED]
9 CAPTAIN [REDACTED]
10 CAPTAIN [REDACTED];
11 CAPTAIN [REDACTED] and
12 CW4 [REDACTED]

13 The prosecution is ready to proceed with the trial in the
14 case of United States versus First Lieutenant Glenn A. Niles.

15 MJ: Thank you. The members of the court will now be sworn.
16 All persons in the courtroom please rise.

17 [All persons did as directed and the members were sworn.]

18 MJ: Please be seated.

19 [All persons did as directed.]

20 MJ: The court is now assembled.

21 Members of the court, it is appropriate that I give you
22 some preliminary instructions. My duty as military judge is to
23 ensure that this trial is conducted in a fair, orderly, and impartial

1 manner in accordance with the law. I preside over open sessions,
2 rule upon objections and instruct you on the law applicable in this
3 case. You are required to follow my instructions on the law and may
4 not consult any other source as to the law pertaining to this case
5 unless it's been admitted into evidence. This rule applies
6 throughout the trial including closed sessions and periods of recess
7 and adjournment. Any questions you have of me should be asked in
8 open court.

9 At a session held earlier, the accused pled guilty to The
10 Charge and Specification, which you have before you. I accepted that
11 plea and entered findings of guilty. Therefore, you will not have to
12 determine whether the accused is guilty or not guilty as that has
13 been determined by his plea. Your duty is to determine an
14 appropriate sentence.

15 That duty is a grave responsibility requiring the exercise
16 of wise discretion. Your determination must be based upon all the
17 evidence presented and the instructions I will give you as to the
18 applicable law. Since you cannot properly reach your determination
19 until all the evidence has been presented and you have been
20 instructed, it is of vital importance that you keep an open mind
21 until all the evidence and instructions have been presented to you.

22 Counsel soon will be given an opportunity to ask you
23 questions and exercise challenges. With regard to challenges, if you

1 know of any matter that you feel might affect your impartiality to
2 sit as a court member, you must disclose that matter when asked to do
3 so. Bear in mind that any statement you make should be made in
4 general terms so as not to disqualify other members who hear the
5 statement.

6 Some of the grounds for challenge would be if you were an
7 accuser in the case, if you have investigated any offense charged, if
8 you formed a fixed opinion as to what an appropriate sentence or
9 punishment would be for this accused. To determine if any grounds
10 for challenge exist, counsel for both sides are given an opportunity
11 to question you. These questions are not intended to embarrass you.
12 They are not an attack upon your integrity. They are asked merely to
13 determine whether a basis for challenge exists. It is no adverse
14 reflection upon a court member to be excused from a particular case.

15 You may be questioned either individually or collectively,
16 but in either event, you should indicate an individual response to
17 the question asked. Unless I indicate otherwise, you are required to
18 answer all questions.

19 You must keep an open mind throughout the trial. You must
20 impartially hear the evidence, the instructions on the law, and only
21 when you are in your closed session deliberations may you properly
22 make a determination as to an appropriate sentence after considering
23 all the alternative punishments of which I will advise you later.

1 You may not have a preconceived idea or formula as to either the type
2 or the amount of punishment, which should be imposed if any.

3 Counsel are given an opportunity to question all witnesses.
4 When counsel have finished, if you feel that there are substantial
5 questions that should be asked, you will be given an opportunity to
6 do so. The way we handle that is you're required to write out the
7 question and sign legibly at the bottom. This method gives counsel
8 for both sides and me an opportunity to review the questions before
9 they're asked since your questions, like the questions of counsel,
10 are subject to objection, and I believe that there are forms provided
11 for your use there if you desire to question any witness. I will
12 conduct any needed examination.

13 There are a couple of things you need to keep in mind with
14 regard to questioning:

15 First, you cannot attempt to help either the government or
16 the defense;

17 Second, counsel have interviewed the witnesses and know
18 more about the case than we do. Very often they do not ask what may
19 appear to us to be an obvious question because they are aware this
20 particular witness has no knowledge on the subject.

21 Rules of evidence control what can be received into
22 evidence. As I indicated, questions of witnesses are subject to
23 objection. During the trial, when I sustain an objection, disregard