

REDACTED
COPY

005919

COURT-MARTIAL RECORD

NAME SIVITS, JEREMY C. SPC

SSN [REDACTED]

ACTIONS CODED:

INITIAL JAN 27 2005

ACCA

FINAL

ASSIGNED TO:

PANEL 4

EXAM. DIV.

COMPANION(S): SEE REVERSE SIDE

RETURN THIS FILE TO:

OFFICE OF THE CLERK OF COURT

US ARMY JUDICIARY

901 NORTH STUART STREET, SUITE 1200

ARLINGTON, VA 22203-1837

VOL I OF III VOL(S)

ARMY 20040551

B

UNITED STATES ARMY JUDICIARY
901 NORTH STUART STREET
ARLINGTON, VIRGINIA 22203-1837

UNITED STATES

ARMY 20040551

v.

SPC JEREMY C. SIVITS

REFERRAL AND DESIGNATION
OF COUNSEL

1. The record of trial in this case having been received for review pursuant to Article 66(b), Uniform Code of Military Justice, the record is, by authority of The Judge Advocate General, hereby referred to the United States Army Court of Criminal Appeals for appellate review. Pursuant to assignment procedures approved by the Chief Judge, the record is assigned to the Panel indicated below.

2. Pursuant to Article 70(c)(1), Uniform Code of Military Justice, the Chief, Defense Appellate Division, and such additional or other appellate counsel as he may assign, shall represent the accused in these proceedings and in any further or related proceedings in the United States Court of Appeals for the Armed Forces. The Chief, Government Appellate Division, and such additional appellate counsel as he may assign, shall represent the United States.

Date: 24 January 2005

PANEL 4

FOR THE CLERK OF COURT:


Paralegal Specialist

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005921

VERBATIM¹
RECORD OF TRIAL²
(and accompanying papers)

OF

SIVITS, Jeremy C.

(NAME: Last, First Middle Initial)

HHC, 16th MP Bde (ABN)

III Corps

(unit/Command Name)

(Social Security Number)

US Army

(Branch of Service)

Specialist

(Rank)

Victory Base, Iraq

(Station or Ship)

BY

SPECIAL (BCD) COURT-MARTIAL

CONVENED BY COMMANDING GENERAL

(Title of Convening Authority)

Headquarters, III Corps

(Unit/Command of Convening Authority)

TRIED AT

Baghdad, Iraq

(Place or Places of Trial)

ON

19 May 2004

(Date or Dates of Trial)

COMPANION CASES:

SPC	[REDACTED]	- ARMY 20041130 - referred Clerk of Court 01-13-05
SSG	[REDACTED]	- ARMY 20041129 - CMCR
SGT	[REDACTED]	- No Case Record
SPC	[REDACTED]	- ARMY 20050054 - CMCR
SPC	[REDACTED]	- No Case Record
SPC	[REDACTED]	- ARMY 20040973 - CMCR
PFC	[REDACTED]	- No Case Record

Pretrial and allied papers

US ARMY
JUDICIARY

2005 JAN 19
P 2:14

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¹ Insert "verbatim" or "summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records of trial only.)
² See inside back cover for instructions as to preparation and arrangement.

CHRONOLOGY SHEET₁

In the case of U.S. v. Specialist Jeremy C. Sivits
(Rank and Name of Accused)

Date of alleged commission of earliest offense tried: 8 November 2003.
(Enter Date)

Date record forwarded to The Judge Advocate General: ² _____ (Enter Date)

CLYDE J. TATE II, COL, JA, Staff Judge Advocate

(Signature and Rank of Staff Judge Advocate or Legal Officer)

1 In a case forwarded to the Judge Advocate General, the staff judge advocate or legal officer is responsible for completion of the Chronology Sheet. Trial counsel should report any authorized deductions and reasons for any unusual delays of the case.

2 Or officer conducting review under Article 64(a) (MCM, 1984, RCM 1112)

3 In computing days between two dates, disregard first day and count last day. The actual number of days in each month will be counted.

4 Item 1 is not applicable when accused is not restrained, (See MVM, 1984, RCM 304) or when he/she is in confinement under a sentence or court-martial at time charges are preferred. Item 2 will be the zero date if item 1 is not applicable.

5 May not be applicable to trial by special court-martial

6 Only this item may be deducted

7 If no further action is required, items 1 through 8 will be completed and chronology signed by such convening authority or his/her representative.

8 When further action is required under Article 64 or service directives.

Action		Date 2004	Cumulative Elapsed Days
1. Accused placed under restraint by military authority ⁴		----	----
2. Charges preferred (date of affidavit)		20 Mar 04	----
3. Article 32 investigation (date of report) ⁵		----	----
4. Charges received by convening authority		5 May 04	46
5. Charges referred for trial		5 May 04	46
6. Sentence or acquittal		19 May 04	60
Less days:			
Accused sick, in hospital or AWOL	0		
Delay at request of defense	28		
Total authorized deduction ⁶	28		
7. Net elapsed days to sentence or acquittal			32
8. Record received by convening authority		25 Jul 04	99
Action ⁷		24 Oct 04	190
9. Record received by officer conducting review under Article 64(a)			
Action ⁸			

REMARKS

- Investigation of the most serious charge was initiated on 20 January 2004. The accused was arraigned on 19 May 2004. Total of 120 days.

005923

2 0 0 4 0 5 5 1

UNITED STATES

v.

SIVITS, JEREMY C.

SPC, U.S. Army,

HHC, 16th Military Police Brigade

(Airborne), III Corps, Victory Base, Iraq

APO AE 09342

POST-TRIAL AND
APPELLATE RIGHTS

28 April 2004

I, SPC JEREMY C. SIVITS, the accused in the above-entitled case, certify that my trial defense counsel has advised me of the following post-trial and appellate rights in the event that I am convicted of a violation of the Uniform Code of Military Justice:

1. In exercising my rights, or in making any decision to waive them, I am entitled to the advice and assistance of military counsel provided free of charge or civilian counsel provided by me at no expense to the Government.
2. After the record of trial is prepared, the convening authority will act on my case. The convening authority can approve the sentence adjudged (as limited by any pretrial agreement), or he can approve a lesser sentence, or disapprove the sentence entirely. The convening authority cannot increase the sentence. He can also disapprove some or all of the findings of guilty. The convening authority is not required to review the case for legal errors, but may take action to correct legal errors.
3. I have the right to submit any matters I wish the convening authority to consider in deciding what action to take in my case. Before the convening authority takes action, the Staff Judge Advocate will submit a recommendation to him. This recommendation will be sent to me and or my defense counsel before the convening authority takes action. If I have matters that I wish the convening authority to consider, or matters in response to the Staff Judge Advocate's recommendation, such matters must be submitted within 10 days after I or my counsel receive a copy of the record of trial or I and/or my counsel receive the recommendation of the Staff Judge Advocate, whichever occurs later. Upon my request, the convening authority may extend this period, for good cause, for not more than an additional 20 days.
4. If the convening authority approves the discharge or confinement for a year or more, my case will be reviewed by the Army Court of Criminal Appeals (ACCA). I am entitled to be represented by counsel before such court. If I so request, military counsel will be appointed to represent me at no cost to me. If I so choose I may also be represented by civilian counsel at no expense to the United States.
5. After the Army Court of Criminal Appeals completes its review, I may request that my case be reviewed by the Court of Appeals for the Armed Forces (CAAF). If my case is reviewed by that Court, I may request review by the Supreme Court of the United

005924

APPELLATE EXHIBIT 1 ✓

20040551 R.125

States. I would have the same rights to counsel before those courts as I have before ACCA.

6. If neither a punitive discharge nor confinement for a year or more is approved, my case will be examined by the Office of The Judge Advocate General for any legal errors and to determine if the sentence is appropriate. The Judge Advocate General (TJAG) may take corrective action as appropriate. This mandatory review under Article 69(a), UCMJ, will constitute the final review of my case unless TJAG directs review by ACCA.

7. I may waive or withdraw review by the appellate courts (subparagraph 4, above) or the Office of The Judge Advocate General (subparagraph 5, above) at any time before such review is completed. I understand that if I waive or withdraw review:

a. My decision is final and I cannot change my mind.

b. My case will then be reviewed by a military lawyer for legal error. It will also be sent to the general court-martial convening authority for final action.

c. Within 2 years after the sentence is approved, I may request The Judge Advocate General to take corrective action on the basis of newly discovered evidence, fraud on the court-martial, lack of jurisdiction over me or the offense, error prejudicial to my substantial rights, or the appropriateness of the sentence.

8. I have read and had my post-trial rights explained to me by counsel and I acknowledge these rights and make the elections set for below. (*Please initial where appropriate.*)

JCS a. I understand my post-trial and appellate review rights.

JCS b. I would like a copy of the record of trial served on ~~my civilian counsel~~, my military counsel, and myself.

JCS c. My defense counsel, 1LT [REDACTED] will submit R.C.M. 1105 matters in my case.

JCS d. I want to be represented before the Army Court of Criminal Appeals by Appellate Defense Counsel appointed by The Judge Advocate General of the Army. I understand that I may contact my Appellate Defense Counsel by writing to: USALSA, Defense Appellate Division, 901 North Stuart Street, Arlington, VA 22203.

JCS e. I have been informed that I have the right to retain civilian counsel at my own expense.

005925

Post-Trial and Appellate Rights – United States v. Sivits«Last-Name»

9. Pending appellate action on my case, I can be contacted, or a message may be left for me, at the following address:

Name: Jeremy C. Sivits

Street:

City, State, Zip: :

Area Code & Telephone: (

Email Address: :

Permanent address (if different from above): SAME

Name:

Street:

City, State, Zip:

Area Code & Telephone:


Email Address:

28 April 2004


JEREMY C. SIVITS
SPC, USA

I certify that I have advised SPC Jeremy C. Sivits regarding the post-trial and appellate rights as set forth above, that he has received a copy of this document, and that he has made elections concerning appellate counsel.

28 April 2004


1LT, JA
Defense Counsel

005926

COURT-MARTIAL DATA SHEET						1. OJAG NUMBER							
2. NAME (Last, First, Middle Initial) SIVITS, Jeremy C.		3. SOCIAL SECURITY		4. RANK SPC		5. UNIT/COMMAND NAME HHC, 16th MP Bde (Abn)							
INSTRUCTIONS													
When an item is not applicable to the record of trial being reviewed, mark the proper block with a diagonal line similar to the ones which appear in the SPCMCA blocks for items 6a and b.													
KEY TO USE													
TC - Trial Counsel. This column will be completed in all cases in which a finding of guilty is returned. SPCMCA - Special Court-Martial Convening Authority who is not empowered to convene a general court-martial. This column will be completed in each special court-martial case by the SPCMCA or his/her designated representative.		GCM or JA - General Court-Martial Convening Authority or Judge Advocate. This column will be completed in any case in which the record is forwarded by the commander exercising general court-martial jurisdiction to The Judge Advocate General of the branch of service concerned. If the record is reviewed under Article 64(a), UCMJ, this column will be completed by the judge advocate accomplishing the review.		OJAG - Appropriate appellate agency in the Office of The Judge Advocate General of the branch of service concerned. This column will be disregarded if a record of trial was reviewed under Article 64, UCMJ, and in cases where there are no approved findings of guilty. References - All references are to the Uniform Code of Military Justice (UCMJ) and the Manual for Courts-Martial, United States (MCM), 1984.									
SECTION A - PRETRIAL AND TRIAL PROCEDURE						TC		SPCMCA		GCM or JA		OJAG	
						YES	NO	YES	NO	YES	NO	YES	NO
6. a. If a general court-martial: Was the accused represented in the Article 32 investigation by civilian or military counsel of his/her own selection or by counsel qualified within the meaning of Article 27(b), UCMJ?						/	/			/	/		
b. If not: Did the accused waive his/her right to such representation?						/	/			/	/		
7. Does the record show place, date, and hour of each Article 39(a) session, the assembly and each opening and closing thereafter?						X				X			
8. a. Are all convening and amending orders of courts to which charges were referred entered in the record?						X				X			
b. Are court members named in the convening orders, detailed military judge (if any), counsel and the accused accounted for as present or absent?						X				X			
c. Was less than a quorum present at any meeting requiring the presence of court members (RCM 805)?						/	/			/	/		
d. Does the record show that after each session, adjournment, recess, or closing during the trial, the parties to the trial were accounted for when the court reopened (A13-5)?						X				X			
e. If the military judge or any member present at assembly was thereafter absent, was such absence the result of challenge, physical disability or based on good cause as shown in the record of trial (RCM 505(c)(2)(A))?						X				X			
9. Were the reporter and interpreter, if any, sworn or previously sworn?						X				X			
10. a. Was the military judge properly certified (RCM 502(c))?						X				X			
b. Was the military judge properly detailed (RCM 503(b))?						X				X			
c. Was the military judge present during all open sessions of the court?						X				X			
11. a. Was the accused advised that:													
(1) He/she had the right to be represented free of charge by a military lawyer of his/her own selection, if reasonably available, in which case detailed counsel might be excused (RCM 506(a))?						X				X			

COURT-MARTIAL DATA SHEET

SECTION A - PRETRIAL AND TRIAL PROCEDURE (CONTINUED)	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
(2) He/she had the right to be represented at the trial by a civilian lawyer provided at no expense to the government, in which case detailed counsel would serve as associate counsel or be excused with the accused's consent?	X				X			
(3) If he/she did not exercise any of the rights listed above, he/she would be defended by detailed counsel certified under Article 27(b), UCMJ (RCM 502(d)(1))?	X				X			
b. (1) Was the accused represented by a civilian lawyer?		X				X		
(2) Did the accused request a specific military counsel?		X				X		
(3) (a) If so, was such request complied with?	/	/			/	/		
(b) If not, were reasons given why requested counsel was not reasonably available?	X				X			
12. a. Was the detailed defense counsel properly certified (RCM 502(d))?	X				X			
b. Was at least one qualified counsel for each party present during all open sessions of the court (RCM 502(d) and RCM 805(c))?	X				X			
13. a. If the special court-martial adjudged a BCD:								
(1) Was a military judge detailed to the court (RCM 503(b))?	X				X			
(2) If not, did the convening authority submit a statement indicating why a military judge could not be detailed and why trial had to be held at that time and place (Article 19, UCMJ)?	/	/			/	/		
(3) Was a verbatim transcript made (Article 19, UCMJ)?	X				X			
14. Did any person who acted as the accuser, investigating officer, military judge, court member, or a member of the defense in the same case, or as counsel for the accused at a pretrial investigation or other proceedings involving the same general matter, subsequently act as a member of the prosecution (RCM 502(d)(4))?		X				X		
15. If any member of the defense had acted as a member of the prosecution in the same case, was he/she excused (RCM 502(d)(4))?	/	/			/	/		
16. a. If any member of the defense had acted as the accuser, investigating officer, military judge, or member of the court, were his/her services expressly requested by the accused (RCM 502(d)(4))?	/	/			/	/		
b. If not, was he/she excused?	/	/			/	/		
17. a. If accused was an enlisted person, did he/she make a request that enlisted persons be included in membership of the court?		X				X		
b. If so, were at least one-third of the members who tried the case enlisted persons, or did the convening authority direct the trial without enlisted persons and provide a detailed written explanation which is appended to the record (RCM 503(a)(2))?	/	/			/	/		
c. Did any enlisted member of the court belong to the same unit as the accused?	/	/			/	/		
18. If a military judge was detailed to the court, was the accused informed of his/her right to request trial by military judge alone?	X				X			
19. Were the members of the court, military judge (if any) and the personnel of the prosecution and defense sworn or previously sworn?	X				X			
20. a. Was any person sitting as a member of the court, or military judge (if any), the accuser, a witness for the prosecution, the investigating officer, staff judge advocate, counsel, or convening authority, or upon rehearing or new trial was he/she a member of the former trial (RCM 902(b) and RCM 912(f))?		X				X		
b. If so, did the accused waive such disqualification (RCM 912(f)(4) and RCM 902(e))?	/	/			/	/		

005928

COURT-MARTIAL DATA SHEET

SECTION A - PRETRIAL AND TRIAL PROCEDURE (CONTINUED)	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
21. a. Was each accused extended the right to challenge military judge (if any), and any member of the court for cause and to exercise one peremptory challenge?	X				X			
b. Was action by court upon challenges proper (RCM 902 and RCM 912)?	/	/			/	/		
c. Does the record show that a member excused as a result of a challenge withdrew from the court?	/	/			/	/		
22. a. Was the accused properly arraigned (RCM 904)?	X				X			
b. Do the following appear in the record: The charges and specifications, the name, rank and unit/command name of the person signing the charges, the affidavit, and the order of reference for the trial?	X				X			
c. Except in time of war, was the accused brought to trial (which includes an Article 39(a), UCMJ session) by general court-martial within five days (by special court-martial within three days) subsequent to service of charges upon him/her (RCM 602)?		X				X		
d. If so, did the accused object to trial?	/	/			/	/		
23. a. Were any charges or specifications affected by the statute of limitations (RCM 907(b))?		X				X		
b. If so, was accused advised of his/her right to assert the statute and was his/her response recorded (RCM 907(b))?	/	/			/	/		
24. Did the court take proper action with respect to motions raising defenses and objections (RCM 905-907)?	X				X			
25. a. Were pleas of accused regularly entered (RCM 910(a))?	X				X			
b. Were pleas of guilty properly explained, and accused's responses recorded (RCM 910(c))?	X				X			
26. Does the record show that all witnesses were sworn?	X				X			
27. Did the military judge or president advise the court concerning the elements of each offense, each lesser included offense reasonably raised by the evidence, and the presumption of innocence, reasonable doubt, and burden of proof, pursuant to Article 51(c), UCMJ (RCM 920(e))?	/	/			/	/		
28. a. If trial was by military judge alone, did the military judge announce the findings (RCM 922)?	X				X			
b. If the trial was with members, did the president announce the findings (RCM 922)?	/	/			/	/		
c. If special findings were requested, were they made a part of the record?	/	/			/	/		
29. Were the findings in proper form (A10)?	X				X			
30. a. Was the evidence, if any, of previous convictions admissible and properly introduced in evidence (RCM 1001(b)(3))?	/	/			/	/		
b. Was the information from personnel records of the accused properly admitted (RCM 1001(b)(2))?	X				X			
c. Was the defense permitted to introduce evidence in extenuation and mitigation after the court announced findings of guilty (RCM 1001(c))?	X				X			
31. a. In a trial with members, did the president announce the sentence (RCM 1007)?	/	/			/	/		
b. If trial was by military judge alone, did the military judge announce the sentence (RCM 1007)?	X				X			

005929

COURT-MARTIAL DATA SHEET

SECTION A - PRETRIAL AND TRIAL PROCEDURE (CONTINUED)	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
32. Was the sentence in proper form (A11)?	X				X			
33. Is the record properly authenticated (RCM 1104)?	X				X			
34. a. Did all members who participated in proceedings in revision vote on original findings and sentence (RCM 1102(e)(1))?	/	/			/	/		
b. At proceedings in revision, were a military judge (if one was present at the trial), the accused, and counsel for the prosecution and defense present (RCM 1102(e)(1))?	/	/			/	/		
35. Was each accused furnished a copy of the record or substitute service made on defense counsel (RCM 1104(b))?	X				X			
36. Was clemency recommended by the court or military judge?		X				X		
SECTION B - PROCEDURE AFTER TRIAL	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
37. Was the court convened by proper authority (RCM 504(b))?	X				X			
38. Did the court have jurisdiction of person and offense (RCM 202 & 203)?	X				X			
39. Does each specification state an offense under the code (RCM 907(b))?	X				X			
40. Did the accused have the requisite mental capacity at the time of trial and the requisite mental responsibility at the time of the commission of each offense (RCM 909 and RCM 916(k))?	X				X			
41. Is the evidence sufficient to support the findings?	X				X			
42. Is the sentence within legal limits (RCM 1112(d))?	X				X			
43. Is the action of the convening authority properly entered in the record and signed (RCM 1107(f))?	X				X			
44. If appropriate, is a proper place of confinement designated (RCM 1107(f)(4)(c))?	/	/			/	/		
45. a. Was the staff judge advocate's post-trial recommendation served on the defense counsel for comment (RCM 1106(f))?	X				X			
b. If the addendum to the recommendation contained new matters, was it served on the defense counsel for comment (RCM 1105(f)(7))?	X				X			
c. Did the accused submit matters for the convening authority's consideration in a timely manner (RCM 1105)?	X				X			
d. If yes, was the convening authority's action subsequent to the submission of the matters?	X				X			
e. If no, did the accused waive in writing the right to submit matters and was the action taken subsequent to the written waiver or did the time periods provided in RCM 1105(c) expire before the convening authority's action?	/	/			/	/		
46. a. Does the record indicate that the accused was advised of his/her appellate rights (RCM 1010)?	X				X			
b. Do the allied papers contain a statement indicating the desires of the accused with respect to appellate representation in the event his/her case is referred to a court of military review?	X				X			
c. Did the accused waive or withdraw appellate review and is the waiver or withdrawal in proper form and attached to the record of trial (RCM 1110, A19 & 20)?		X				X		

005930

COURT-MARTIAL DATA SHEET

SECTION C - COURT-MARTIAL ORDERS (CMO)	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
47. Does the initial CMO bear the same date as the action of the convening authority who published it?	X				X			
48. Are all the orders convening the court which tried the case correctly cited in the CMO?	/	/			/	/		
49. Are the accused's name, rank, SSN, unit/command name and branch of service correctly shown in the CMO?	X				X			
50. Are all the charges and specifications (including amendments) upon which the accused was arraigned correctly shown in the CMO (RCM 1114)?	X				X			
51. Are the pleas, findings, and sentence correctly shown in the CMO (RCM 1114)?	X				X			
52. Does the CMO show the date the sentence was adjudged?	X				X			
53. Is the action of the convening authority correctly shown in the CMO?	X				X			
54. Is the CMO properly authenticated (RCM 1114)?	X				X			
55. REMARKS:								

COURT-MARTIAL DATA SHEET

55. REMARKS (Continued):

56. TRIAL COUNSEL

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED
[REDACTED]	MAJ	[REDACTED]	24 Dec 04

57. CONVENING AUTHORITY OR HIS/HER REPRESENTATIVE

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED

58. STAFF JUDGE ADVOCATE OF GENERAL COURT-MARTIAL CONVENING AUTHORITY OR REVIEWING JUDGE ADVOCATE

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED
[REDACTED]	COL	[REDACTED]	26 Dec 04

59. ACTION IN THE OFFICE OF THE JUDGE ADVOCATE GENERAL

a. ACTION:

b. INDIVIDUAL COMPLETING DATA SHEET

(1) TYPED NAME (Last, First Middle Initial)	(2) RANK	(3) SIGNATURE	(4) DATE SIGNED

DEPARTMENT OF THE ARMY
Headquarters, III Corps
Victory Base, Iraq
APO AE 09342-1400

SPECIAL COURT-MARTIAL ORDER
NUMBER 13

18 December 2004

Specialist Jeremy C. Sivits, U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq, was arraigned at Victory Base on the following offenses at a special court-martial convened by the Commander, III Corps.

Charge I: Article 81. Plea: Guilty. Finding: Guilty.

Specification: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, conspire with Staff Sergeant [REDACTED] Sergeant [REDACTED] Corporal [REDACTED], Specialist [REDACTED] Specialist, [REDACTED] and Private First Class [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy, the said Specialist [REDACTED] took a photograph of nude detainees being forced into a human pyramid position. Plea: Guilty, excepting the words, "the said Specialist [REDACTED] took a photograph of," and substituting therefore the words, "that a photograph be taken of." To the excepted words: Not Guilty. To the substituted words: Guilty. Finding: Guilty.

Charge II: Article 92. Plea: Guilty. Finding: Guilty.

Specification: Who should have known of his duties at or near Baghdad Central Correction Facility, Abu Ghraib, Iraq, on or about 8 November 2003, was derelict in the performance of those duties in that he negligently failed to protect detainees from abuse, cruelty and maltreatment, as it was his duty to do. Plea: Guilty. Finding: Guilty.

Charge III: Article 93. Plea: Guilty. Finding: Guilty.

Specification 1: At or near Baghdad Central Correction Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat a detainee, a person subject to his orders, by escorting the detainee to be positioned in a pile on the floor to be assaulted by other soldiers. Plea: Guilty. Finding: Guilty.

Specification 2: At or near Baghdad Central Correction Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several detainees, persons subject to his orders, by taking a picture of said detainees who were laying on a pile on the floor, while another guard, Corporal [REDACTED] kneeled on top of the pile of detainees. Plea: Guilty. Finding: Guilty.

005933

20040551

SPCMO No. 13, DA, Headquarters, III Corps, Victory Base, Iraq, APO AE 09342-1400
dated 18 December 2004 (continued)

SENTENCE

Sentence was adjudged on 19 May 2004. To be reduced to the grade of Private (E-1); to be confined for one year and to be discharged with a bad-conduct discharge.

ACTION

The sentence is approved and, except for the part of the sentence extending to bad-conduct discharge, will be executed. The automatic forfeiture of pay and allowances required by Article 58(b), UCMJ, are hereby ordered waived effective 22 May 2004, for a period of six months, with the direction that those forfeitures be paid to the accused's wife for her personal financial support.

BY COMMAND OF LIEUTENANT GENERAL METZ:

DISTRIBUTION:

SPC Sivits (1)
MJ, COL [REDACTED] (1)
TC, CPT [REDACTED] (1)
ASS TC, CPT [REDACTED] (1)
DC, 1LT [REDACTED] (1)
Cdr, HHC, 16th MP Bde (Abn) (1)
Cdr, 16th MP Bde (Abn) (1)
Cdr, III Corps, ATTN: SJA (2)
Cdr, III Corps (1)
Cdr, Det D, 15th Fin Bn, ATTN: FAO (1)
Cdr, 15th PSB, ATTN: Records Section (1)
Cdr, USAEREC, ATTN: PCRE-FS, Indianapolis, IN 46249 (1)
Clerk of Court, ATTN: 901 N. Stuart St., Suite 1200, Arlington, VA 22203-1837 (10)

[REDACTED]
MAJ, JA
Chief, Military Justice

DEC 18 2004

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Addendum to Post-Trial Recommendation in the Court-Martial of the United States v. Specialist Jeremy C. Sivits Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq, APO AE 09342—ACTION MEMORANDUM

1. Purpose. To forward a petition for clemency submitted by Specialist Jeremy C. Sivits, under the provisions of Rules for Courts-Martial (RCM) 1105 and 1106, through his defense counsel. Pursuant to RCM 1107, you must consider the defense submission prior to taking action.
 2. Discussion. On 30 August 2004, I signed the post-trial recommendation in this case and directed that the document be served on Specialist Sivits's defense counsel for comment.
 3. Clemency Request. Specialist Sivits's defense counsel has requested that you approve only so much of the sentence that provides for confinement for nine months and disapprove the bad conduct discharge. The defense counsel's bases for the request are Specialist Sivits's continued cooperation with the Army's investigation and prosecution of the other co-accused involved with the alleged detainee abuse that occurred at the Baghdad Central Correctional Facility at Abu Ghraib, Iraq.
-
4. Recommendation. In accordance with RCM 1106, I have carefully considered the enclosed matters. In my opinion, clemency is not warranted. I adhere to my previous recommendation that you approve the sentence as adjudged. An action to accomplish this is enclosed.

Encl
Defense Counsel Submissions
with Enclosures


COL, JA
Staff Judge Advocate

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AUG 30 2004

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Post-Trial Recommendation in the Special Court-Martial of the United States v. Specialist Jeremy C. Sivits, U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq—ACTION MEMORANDUM

1. Purpose. To obtain action in the special court-martial of the United States v. Specialist Jeremy C. Sivits.
2. Recommendation. You approve the sentence and except for the part of the sentence extending to a bad-conduct discharge, order the sentence executed.
3. Discussion. Pursuant to RCM 1104(e) and 1106, the record of trial in the United States v. Specialist Jeremy C. Sivits has been referred to me for my recommendation prior to your action. Forwarded herewith is a copy of the court-martial record of trial.

a. **Trial**: On 19 May 2004, the accused was tried by a special court-martial empowered to adjudge a bad conduct discharge.

b. **Summary of the Charges, Specifications, Pleas, and Findings:**

<u>CHARGE</u>	<u>ART</u> <u>UCMJ</u>	<u>SPEC</u>	<u>GIST OF OFFENSE</u>	<u>PLEA</u>	<u>FINDING</u>
I	81	The	Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, conspire with SSG [REDACTED] SGT [REDACTED], CPL [REDACTED], SPC [REDACTED], SPC [REDACTED], and PFC [REDACTED] to commit an offense under the UCMJ, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy, the said SPC Sivits took a photograph of nude detainees being forced into a human pyramid position.	*G	**G

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AFZF-JA-MJ

SUBJECT: Post-Trial Recommendation in the Special Court-Martial of the United States v. Specialist Jeremy C. Sivits, [REDACTED], U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq—ACTION MEMORANDUM

<u>CHARGE</u>	<u>ART</u> <u>UCMJ</u>	<u>SPEC</u>	<u>GIST OF OFFENSE</u>	<u>PLEA</u>	<u>FINDING</u>
II	92	The	At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or 8 November 2003, was derelict in the performance of those duties of which he should have known, in that he negligently failed to protect detainees from abuse, cruelty and maltreatment, as it was his duty to do.	G	G
III	93	1	At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat a detainee, a person subject to his orders, by escorting the detainee to be positioned in a pile on the floor to be assaulted by other soldiers.	G	G
		2	At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several detainees, persons subject to his orders, by taking a picture of said detainees who were laying on a pile on the floor, while another guard, CPL [REDACTED] kneeled on top of the pile of detainees.	G	G

*Guilty, except the words, "the said SPC Sivits took a photograph of," and substituting therefore the words, "that a photograph be taken of." To the excepted words: Not Guilty. To the substituted words and the specification: Guilty.

**The Military Judge, on motion of Trial Counsel, amended the specification excepting the words "SPC Sivits took a photograph of," and substituting therefore the words "that

005937

AFZF-JA-MJ

SUBJECT: Post-Trial Recommendation in the Special Court-Martial of the United States v. Specialist Jeremy C. Sivits, U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq—ACTION MEMORANDUM

a photograph be taken of," and excepted the words "SGT [REDACTED]," and "SPC [REDACTED]," prior to announcing findings.

c. **Sentence Adjudged:** To be reduced to the grade of Private (E-1), to be confined for one year, and to be discharged with a bad-conduct discharge.

d. **Pretrial Confinement:** None.

e. **Pretrial Agreement:** The convening authority will refer this case to a Bad-Conduct Discharge court-martial; agree to disapprove all adjudged forfeitures and to waive all automatic forfeitures and direct that any such forfeitures be provided to support his family and provide Specialist Sivits with absolute immunity from further prosecution in or relating to this matter.

f. **Personal Data of the Accused:**

(1) *Date and Term of Current Service:* 23 November 1998 (96 months);
ETS: 22 November 2006.

(2) *Date of Birth:* 21 January 1979.

(3) *Awards and Decorations:* ARM-SVC-RBN; ARCOM; AAM-2;
ARM-FCS-EXP-MDL; NTL-DEF-SVC-MDL; NATO-MDL; ARM-FCS-RES-MDL w/M-DEV; Drivers Mechanic Badge w/Wheel

(4) *Nonjudicial Punishment or Previous Convictions:* None.

(5) *Dependents:* 1 wife.

(6) *GT Score:* 105.

(7) *MOS:* 63B (Light Wheel Vehicle Mechanic).

(8) *BASD:* 23 November 1998.

(9) *PEBD:* 23 November 1998.

(10) Additional information concerning the character of the accused's service is located in the Record of Trial.


005938

AFZF-JA-MJ

SUBJECT: Post-Trial Recommendation in the Special Court-Martial of the United States v. Specialist Jeremy C. Sivits, U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq—ACTION MEMORANDUM

g. **Discretion of the Convening Authority:** As the convening authority, you may approve, disapprove, set aside, or modify the findings of the court-martial. You may also approve, disapprove, commute, or suspend the sentence in whole or in part, in accordance with the pretrial agreement. Such action may be taken in the interests of justice, discipline, mission requirements, clemency, or any other appropriate reason. The action to be taken is matter of command prerogative and lies within your sole discretion.

h. **Service on the Accused and Counsel:** This memorandum will be served on defense counsel for comment before action.

4. Point of contact for this action is the undersigned at 318 822-


COL, JA
Staff Judge Advocate



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
BAGHDAD FIELD OFFICE
CAMP VICTORY, IRAQ
APO AE 09342

REPLY TO
ATTENTION OF

FICI-JA-TBO

19 September 2004

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq, APO AE 09342-1400.

SUBJECT: Post-Trial Submissions, U. S. v Specialist Jeremy C. Sivits, U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq

1. Pursuant to Rule for Court-Martial (R.C.M.) 1105 and 1106, and Articles 38(c) and 60, Uniform Code of Military Justice (U.C.M.J.), the Defense submits the following for consideration in post-trial actions:

The Staff Judge Advocate's Post-Trial Advice:

2. The Defense has no additions, corrections or deletions to the form of the Staff Judge Advocate's Post-Trial Advice.

Clemency Issues:

3. The Defense requests that you approve a confinement sentence of only nine (9) months and disapprove the Bad Conduct Discharge (BCD).

4. Clemency is appropriate in PVT Sivits' case for the following reasons:

a. From the commencement of Criminal Investigation Division's (CID) investigation into the abuse which occurred at Abu Ghraib prison, PVT Sivits has been honest, forthright and remorseful. When first approached by CID, PVT Sivits voluntarily provided CID with several highly incriminating Sworn Statements and oral statements detailing his limited involvement in the incident which took place on the night of 08 November 2003.

b. Additionally, PVT Sivits cooperated with the Army's investigation by voluntarily waiving his Article 31 rights, consenting to a search of his living area, waiving his right to a preliminary hearing under Article 32 and pleading guilty to the charged offenses.

c. Specifically, prior to trial and while under no legal obligation to do so, PVT Sivits met several times with CPT [REDACTED] (the Trial Counsel) and provided CPT [REDACTED] with detailed answers concerning his, and the co-accuseds', involvement in the abuse at Abu Ghraib. Further, PVT Sivits also spoke with the Trial Counsel(s) at Fort Bragg, North Carolina about SPC [REDACTED] and PFC [REDACTED] respective roles in the abuse.

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d. At his trial, PVT Sivits made the Government's role as painless as possible: he voluntarily requested a trial by military judge alone, thereby reducing the time and logistical problems associated with a trial by military panel, and did not call any out of theater witnesses to speak on his behalf.

Despite the foregoing honesty, cooperation and acknowledgement of his guilt, PVT Sivits was given an unduly harsh sentence by the Military Judge and nearly the maximum possible sentence, e.g., one (1) year confinement, a punitive discharge (BCD) and reduction to E-1. A guilty plea trial of another soldier this month (SPC [REDACTED] – a military intelligence soldier nonetheless, and not a light-wheeled vehicle mechanic like PVT Sivits) resulted in a sentence of confinement of only eight (8) months.

During the height of the public awareness of the Abu Ghraib incident, PVT Sivits was the only accused who honestly and acknowledged his complicity and limited role in the abuse: unlike all of the other co-accused, PVT Sivits did not attempt to deflect blame toward his Commanders and high-profile elected officials and PVT Sivits publicly accepted responsibility for his actions by pleading guilty.

e. After trial, PVT Sivits (while under no legal obligation to do so) cooperated for MG George R. Fay's AR 15-6 investigation into military intelligence's possible role in the Abu Ghraib abuse by speaking with MG Fay's representative (Mr. [REDACTED] HQs, 902 MI Group) for several hours and by providing him with a detailed Sworn Statement. To this day, PVT Sivits continues to fully cooperate with the Government in its prosecution of the other co-accuseds.

5. PVT Sivits is presently confined at the United States Marine Corp brig at Camp Lejeune, North Carolina. In addition to serving his confinement at a Marine Corps brig instead of an Army confinement facility, PVT Sivits has not (as of 13 September) received any pay from the Army since 15 July 2004.

6. The following soldiers have written letters requesting clemency on PVT Sivits' behalf (see attached):

a. **Special Agent** [REDACTED] SA [REDACTED] was the investigator who initially received the allegations of abuse at Abu Ghraib and who interviewed PVT Sivits during CID's investigation. According to SA [REDACTED] "[f]rom his initial interview to his court-martial, PVT SIVITS demonstrated that he was willing to accept his share of the blame for his actions, and to help the investigators uncover the truth at a time when every other subject of the investigation was shifting blame, obscuring the truth and attempting to minimize their culpability." SA [REDACTED] requests that "clemency be granted in some form for PVT SIVITS." He writes that "I believe he could be rehabilitated and returned to the Army as a values-driven soldiers who would demonstrate the highest ideals that we ask of all soldiers. Rarely have I encountered a subject of an investigation who

005942

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acknowledges their crimes and assists in uncovering the truth. In this case, PVT SIVITS is one of those rare individuals."

b. MAJ [REDACTED] As the psychiatrist and mental health officer who examined PVT Sivits during May, June and July 2004, MAJ [REDACTED] "fully support[s] PVT Sivits' request for clemency." Finding that PVT Sivits is remorseful for what occurred, it is MAJ [REDACTED] "professional opinion that PVT Sivits does not have the personal background that would suggest that his remorse is malingered."

c. CPT [REDACTED] CPT [REDACTED] is the medical officer who provided mental health counseling to PVT Sivits from May through July 2004. CPT [REDACTED] writes that "[i]t is without hesitation that I strongly support PVT Sivits' request for clemency." In her request for clemency, CPT [REDACTED] writes that she was "especially impressed by PVT Sivits' expressions of remorse and regret for his role in the Abu Ghraib Prison abuse" and that she has "not observed such a level of remorse in others charged with similar offenses." In her professional opinion, "PVT Sivits' expressions of remorse [do not] stem from the fact that the abuse activities were uncovered" but rather that "they are the result of his deep insight into the devastation and pain inflicted upon his country and the Iraqi people by his actions and those of his fellow soldiers."

6. Also attached in "book form" is a compilation of memorandums, letters of support, family photographs, awards and certificates for PVT Sivits introduced at trial. The memorandums are from his former Company Commander and Sergeant Major.

a. CPT [REDACTED] CPT [REDACTED] states that PVT Sivits "peers and chain of command held [him] in high esteem" and that PVT Sivits "is a reliable soldier who accomplishes every assigned task."

b. SGM [REDACTED] According to SGM [REDACTED] PVT Sivits would always "take time to help [another soldier] no matter what section the soldier was assigned to" and that PVT Sivits is "respectful when dealing with other soldiers no matter what their rank may have been."

7. The Defense requests that you disapprove the BCD and approve a confinement sentence of only nine (9) months.

8. Point of contact for this memorandum is the undersigned at 318-822-[REDACTED] Thank you for your careful consideration in this matter.

Encls

[REDACTED]
1LT, JA
Defense Counsel

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7/16
REMOVED BATES PAGES 5944 - 5989
(RECORD OF TRIAL – PVT JEREMY SIVITS)

(46 TOTAL PAGES)

DOCUMENTS CONSIST OF PERSONAL LETTERS TO THE
CONVENING AUTHORITY WRITTEN BY FAMILY AND FRIENDS
ON BEHALF OF PVT SIVITS AND OTHER RECORDS, WHICH WERE
DETERMINED TO BE NONRESPONSIVE TO THE PLAINTIFF'S FOIA
REQUEST

5943A

DEPARTMENT OF THE ARMY
Headquarters, III Corps
Victory Base, Iraq
APO AE 09342-1400

AFZF-CG

DEC 18 2004

MEMORANDUM THRU


Commander, 16th Military Police Brigade (Airborne), III Corps, LSA Anaconda, Iraq,
APO AE 09342

Commander, Headquarters and Headquarters Company, 16th Military Police Brigade
(Airborne), III Corps, LSA Anaconda, Iraq, APO AE 09342

FOR Specialist Jeremy C. Sivits, U.S. Army, 16th Military Police Brigade
(Airborne), III Corps, LSA Anaconda, Iraq, APO AE 09342

SUBJECT: Action on Matters Submitted Pursuant to Rules for Courts-Martial
1105 & 1106

I personally reviewed and considered all post-trial matters submitted by your defense
counsel before taking action in this case.



THOMAS F. METZ
Lieutenant General, USA
Commanding

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DEPARTMENT OF THE ARMY
Headquarters, III Corps
Victory Base, Iraq
APO AE 09342-1400

MAY 22 2004

AFZF-CG

MEMORANDUM THRU

Commander, Headquarters and Headquarters Company, 16th Military Police Brigade,
III Corps, Victory Base, Iraq, APO AE 09342-1400
Commander, 16th Military Police Brigade, III Corps, Victory Base, Iraq, APO AE
09342-1400

FOR Specialist Jeremy C. Sivits, Headquarters and Headquarters Company, 16th
Military Police Brigade, III Corps, Victory Base, Iraq, APO AE 09342-1400

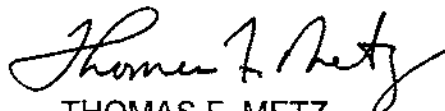
SUBJECT: Request for Waiver of Automatic Forfeitures

1. Purpose. To advise you that your request for waiver of automatic forfeitures is granted.

2. Action. I approve the waiver of automatic forfeitures for six months. I direct payment to the checking account of your wife for her personal financial support.

3. Effective Date. My approval of your request is effective immediately.

4. POC is Captain [REDACTED] at DSN 318-822-[REDACTED]


THOMAS F. METZ
Lieutenant General, USA
Commanding

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PRETRIAL ALLIED PAPERS

DEPARTMENT OF THE ARMY
Headquarters, III Corps
Victory Base, Iraq
APO AE 09342-1400

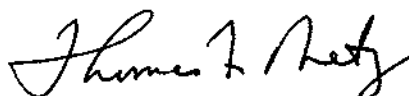
AFZF-CG

MAY 5 2004

MEMORANDUM FOR Staff Judge Advocate

SUBJECT: Disposition of the Court-Martial Charges Preferred Against Specialist
Jeremy C. Sivits (

The recommendations of the Staff Judge Advocate are approved. The attached charges and their specifications are referred to a special court-martial empowered to adjudge a bad conduct discharge convened by Court-Martial Convening Order Number 2, dated 14 January 2004.



THOMAS F. METZ
Lieutenant General, USA
Commanding

095993

AFZF-JA -MJ

MEMORANDUM FOR Commander, III Corps, Victory Base, Iraq, APO AE 09342-1400

SUBJECT: Advice on Disposition of the Court-Martial Charges Preferred Against Specialist Jeremy C. Sivits.)—ACTION MEMORANDUM

1. Purpose. To forward for disposition, in accordance with Rule for Court-Martial (RCM) 407, the court-martial charges against Specialist Jeremy C. Sivits, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq, APO AE 09342.

2. Recommendations.

a. *Chain of Command.* As reflected on the attached transmittal of court-martial charges memoranda, the soldier's company commander recommended referral to a general court-martial and the brigade commander, pursuant to the accused's offer to plead guilty, recommended referral of the charges to a special court-martial empowered to adjudge a bad conduct discharge.

b. *Staff Judge Advocate.* Pursuant to the offer to plead guilty, I recommend you refer the attached charges and their specifications to a special court-martial empowered to adjudge a bad conduct discharge, pursuant to RCM 601, and refer the case to trial by Court-Martial Convening Order Number 2, dated 14 January 2004.

3. Staff Judge Advocate Review. In accordance with RCM 406 and Article 34, Uniform Code of Military Justice (UCMJ), I have reviewed the attached charges and supporting documentation. It is my legal conclusion that:

a. The specifications allege offenses under the UCMJ;

b. The allegations of the offenses are warranted by the evidence indicated in the attached documentation; and

c. The court-martial will have jurisdiction over the accused and the offenses alleged.

4. POC is CPT [REDACTED] at DSN 318-822-[REDACTED]

Encls

- 1. Charge Sheet
- 2. Court-Martial Charges Transmittal
- 3. Allied Documents

[REDACTED]
COL, JA
Staff Judge Advocate
5 May 2004

005994



**DEPARTMENT OF THE ARMY
HEADQUARTERS, 16TH MILITARY POLICE BRIGADE (AIRBORNE)
CAMP VICTORY, IRAQ, APO AE 09342**

REPLY TO
ATTENTION OF

ORDERS 72-6

12 March 2004

SIVITS, JEREMY C., SGT, 63B10 [REDACTED], 372nd Military Police Company
(WTEZAA), APO AE 09342

You are attached or released from attachment.

Attached to: HHC, 16th Military Police Brigade (Airborne) (WFP6AA) APO AE 09342

Reporting Date: 12 March 2004

Period: Indefinite

Movement Designator Code: NZ03

Additional Instructions: You are attached for personnel service support to include
Awards and Decorations, UCMJ, and all other forms of personnel and legal
administration support.

Format: 745

[REDACTED]
CPT, MP
Brigade Adjutant

DISTRIBUTION:

CDR, 372nd MP CO (1)

CDR, HHC, 16th MP BDE (ABN) (1)

File (1)

Individual (3)

005996

REPORT TO SUSPEND FAVORABLE PERSONNEL ACTIONS (FLAG)

For use of this form, see AR 600-8-2; the proponent agency is MILPERCEN.

SECTION I - ADMINISTRATIVE DATA

1. NAME (Last, First, MI) SIVITS, JEREMY C.		2. SSN [REDACTED]	3. RANK E-5/ SGT
4. <input checked="" type="checkbox"/> On active duty <input type="checkbox"/> Not on active duty <input type="checkbox"/> On ADT		5. ETS/ESA/MRD 20041122	
6. UNIT ASSIGNED AND ARMY MAJOR COMMAND 372ND MP CO 99TH RRC		7. STATION (Geographical location) 372ND MP CO ABU GHRAIB, IRAQ APO AE 09335	
8. PSC CONTROLLING FLAGGING ACTION AND TELEPHONE NUMBER MSG [REDACTED] 301-729-[REDACTED] CPL [REDACTED] 559-[REDACTED]			
9. THIS ACTION IS TO: <input checked="" type="checkbox"/> Initiate a flag (Sections II and V only) <input type="checkbox"/> Transfer a flag (Sections III and V only) <input type="checkbox"/> Remove flag (Sections IV and V only)			

SECTION II - INITIATE A FLAG

10. ☒ A FLAG IS INITIATED, EFFECTIVE 20040125 FOR THE FOLLOWING REASON:

<u>NON-TRANSFERABLE</u>	<u>TRANSFERABLE</u>
<input checked="" type="checkbox"/> Adverse action (A)	<input type="checkbox"/> APFT failure (J)
<input type="checkbox"/> Elimination - field initiated (B)	<input type="checkbox"/> Weight control program (K)
<input type="checkbox"/> Removal from selection list - field initiated (C)	
<input type="checkbox"/> Referred OER (D)	
<input type="checkbox"/> Security violation (E)	
<input type="checkbox"/> HQDA use only - elimination or removal from selection list (F)	

SECTION III - TRANSFER A FLAG

11. ☐ A FLAG IS TRANSFERED FOR THE FOLLOWING REASON:

<input type="checkbox"/> Adverse action - HQDA directed reassignment (G)	<input type="checkbox"/> APFT failure (J)
<input type="checkbox"/> Adverse action - punishment phase (H)	<input type="checkbox"/> Weight control program (K)
<input type="checkbox"/> Supporting documents attached? <input type="checkbox"/> Yes <input type="checkbox"/> No	

SECTION IV - REMOVE A FLAG

12. ☐ A FLAG IS REMOVED, EFFECTIVE _____ FOR THE FOLLOWING REASON:

<input type="checkbox"/> Case closed favorably (C)	<input type="checkbox"/> Soldier transferred to a different Army component or discharged while case in process (destroy case file) (E)
<input type="checkbox"/> Disciplinary action taken (D)	<input type="checkbox"/> Other final action (E)

SECTION V - AUTHENTICATION

DISTRIBUTION 1 - Unit Commander 1 - F&AO 1 - PSC 1 - Commander, gaining unit (transfer flag only)	
NAME, RANK, TITLE, AND ORGANIZATION [REDACTED] ILT, MP Commanding 372nd Military Police Company	SIGNATURE [REDACTED] DATE 005997 11/04

DEPARTMENT OF THE ARMY
HEADQUARTERS, 99TH REGIONAL SUPPORT COMMAND
99 SOLDIERS LANE
CORAOPOLIS, PENNSYLVANIA 15108-2550

ORDERS M-052-0138

21 February 2003

SIVITS JEREMY CHARLES

0372 MP CO COMBAT SUPPORT (WTEZAA)
CUMBERLAND, MD 21502-5605

You are ordered to Active Duty as a member of your Reserve Component unit for the period indicated unless sooner released or unless extended. Proceed from your current location in sufficient time to report by the date specified. You enter active duty upon reporting to unit home station.

Report to: 0372 MP CO COMBAT SUPPORT (WTEZAA), 14418 MCMULLEN HWY SW,
CUMBERLAND, MD 21502-5605 Report On: 24 February 2003

Report to: Fort Lee, Building P6008, Fort Lee, VA 23801 Report On: 27 February
2003

Period of active duty: 365 Days

Purpose: Mobilization for ENDURING FREEDOM

Mobilization category code: "V"

Additional instructions: 01, 02, 03, 04, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15,
16, 17

FOR ARMY USE

AUTHORITY: HQDA MSG 171644ZFEB03/DAMO-ODM/ORDTYP/MOBORD/HQDA ONE/OEF NO.322-03

Accounting classification:

2132010.0000 01-1100 P1W1C00 11**/12** VFRE F3203 5570 S99999

2132010.0000 01-1100 P2W2C00 11**/12** VFRE F3203 5570 S99999

2132020.0000 01-1100 P135198 21**/22**/25** VFRE F3203 5570 S99999

Sex: M

MDC: PM

PMOS/AOC/ASI/LIC: 63B10

HOR: [REDACTED]

PEBD: 23 November 1998

DOR: 23 November 1999

Security clearance: SECRET

Comp: USAR

Format: 165

FOR THE COMMANDER:

* OFFICIAL *
* 99TH REGIONAL SUPPORT COMMAND *

[REDACTED]
MPO

MILITARY PERSONNEL OFFICER

DISTRIBUTION: M1 PLUS

INDIVIDUAL CONCERNED (4)

FAMILY ASSISTANCE OFFICER (1)

MPRJ

FILE (ORIGINAL + 1)

005998

21 February 2003

Additional instructions:

01. Sure pay is mandatory. Soldier must bring the appropriate documentation to support the requirement to authorize sure pay to the bank.
02. Early reporting is not authorized.
03. Unaccompanied baggage shipment is not authorized.
04. Movement of household goods and dependents is not authorized.
05. Travel by privately owned vehicle is not authorized.
06. Rental car is not authorized.
07. Nontemporary storage of household goods is authorized.
08. Excess accompanied baggage is not to exceed 120 pounds.
09. Bring with you complete military clothing bag and appropriate personal items.
10. Soldier will handcarry (if available) complete MPRJ, health and dental, training, and clothing records.
11. Bring copies of rental or mortgage agreement, marriage certificate, birth certificate, birth certificate of natural children, or documentation of dependency or child support.
12. Bring copies of family care plan, wills, powers of attorney, and any other documentation affecting the soldiers pay or status.
13. Personnel requiring eye correction will bring two pairs of eyeglasses and eye inserts for a protective mask.
14. Government quarters and mess will be used.
15. Call 1-800-336-4590 (National Committee for Employer Support of the Guard and Reserve) or check online at www.esgr.org if you have questions regarding your employment/reemployment rights
16. Your family members may be eligible for TRICARE (military health care) benefits. For details call 1-888-DoD-CARE (1-888-363-2273) or go to web address <https://www.tricare.osd.mil/reserve/> or email TRICARE_help@amedd.army.mil
17. In an effort to share information between soldiers, employers and the Department of Defense on their rights, benefits and obligations, mobilized USAR soldiers are strongly encouraged to provide employer information at <https://www.dmdc.osd.mil/udpdri/owa/rc.home>
18. NA
19. NA

005999

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, First, Middle) SIVITS, JEREMY CHARLES		2. DEPARTMENT, COMPONENT AND BRANCH ARMY/USAR		3. SOCIAL SECURITY NO. [REDACTED]	
4.a GRADE, RATE, OR RANK PV2		4.b PAY GRADE E2		5. DATE OF BIRTH (YYYYMMDD) [REDACTED]	
6. RESERVE OBLIG. TERM. DATE Year 2006 Month 11 Day					
7.a PLACE OF ENTRY INTO ACTIVE DUTY PITTSBURGH, PA		7.b HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known) [REDACTED]			
8.a LAST DUTY ASSIGNMENT AND MAJOR COMMAND CO A 187 ORD BN TR TC		8.b STATION WHERE SEPARATED FT JACKSON, SC 29207-5000			
9. COMMAND TO WHICH TRANSFERRED 439 QM CO PETR 200 WINTERGREEN AVE NEW HAVEN CT 06515		10. SGLI COVERAGE <input type="checkbox"/> None Amount: \$ 100,000.00			
11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.) 63B10 00 LIGHT VVEH MECH--0 YRS-0 MOS //NOTHING FOLLOWS		12. RECORD OF SERVICE			
		Year(s) Month(s) Day(s)			
		a. Date entered AD This Period 1999 01 07			
		b. Separation Date This Period 1999 05 29			
		c. Net Active Service This Period 0000 04 23			
		d. Total Prior Active Service 0000 00 00			
		e. Total Prior Inactive Service 0000 01 14			
		f. Foreign Service 0000 00 00			
		g. Sea Service 0000 00 00			
		h. Effective Date of Pay Grade 1998 12 02			
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service) ARMY SERVICE RIBBON//NOTHING FOLLOWS					
14. MILITARY EDUCATION (Course title, number of weeks and month and year completed) LIGHT WHEEL VEHICLE MECHANIC, 10 WEEKS, MAY 1999//NOTHING FOLLOWS					
15.a MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERAN'S EDUCATIONAL ASSISTANCE PROGRAM		Yes	No	15.b HIGH SCHOOL GRADUATE OR EQUIVALENT	
			X	Yes No X	
16. DAYS ACCRUED LEAVE PAID NONE					
17. MEMBER WAS PROVIDED A COMPLETE DENTAL EXAM AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
18. REMARKS DATA HEREIN SUBJECT TO COMPUTER MATCHING WITHIN DOD OR WITH OTHER AGENCIES FOR VERIFICATION PURPOSES AND DETERMINING ELIGIBILITY OR COMPLIANCE FOR FEDERAL BENEFITS//MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE//NOTHING FOLLOWS					
19.a MAILING ADDRESS AFTER SEPARATION (Include Zip Code) [REDACTED]			19.b NEAREST RELATIVE (Name and address - Include Zip Code) FREDA R SIVITS		
20. MEMBER REQUESTS COPY 4 BE SENT TO: <input checked="" type="checkbox"/> DTIC <input type="checkbox"/> DIR OF VET. AFFAIRS <input type="checkbox"/> Yes <input type="checkbox"/> No			22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title and signature) [REDACTED] SGT, TRANS PT SUPERVISOR		
21. SIGNATURE OF MEMBER BEING SEPARATED [REDACTED]					
SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)					
23. TYPE OF SEPARATION RELEASE FROM ACTIVE DUTY TRAINING			24. CHARACTER OF SERVICE (Include upgrades) UNCHARACTERIZED		
25. SEPARATION AUTHORITY AR 635-200, CHAP 4			26. SEPARATION CODE MBK		27. REENTRY CODE NA
28. NARRATIVE REASON FOR SEPARATION COMPLETION OF REQUIRED ACTIVE SERVICE					
29. DATES OF TIME LOST DURING THIS PERIOD NONE					30. MEMBER REQUESTS COPY 4 [REDACTED] Initials

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, First, Middle) SIVITS, JEREMY CHARLES		2. DEPARTMENT, COMPONENT AND BRANCH ARMY/USAR		3. SOCIAL SECURITY NUMBER [REDACTED]		
4.a GRADE, RATE, OR RANK CPL	4.b PAY GRADE E4	5. DATE OF BIRTH (YYYYMMDD) [REDACTED]		6. RESERVE OBLIG. TERM. DATE Year 2006 Month 11 Day		
7.a PLACE OF ENTRY INTO ACTIVE DUTY CUMBERLAND, MD		7.b HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known) [REDACTED]				
8.a LAST DUTY ASSIGNMENT AND MAJOR COMMAND DET 2 372 MP CO APO AE 09789 FC		8.b STATION WHERE SEPARATED FORT DIX, NJ 08640-5089				
9. COMMAND TO WHICH TRANSFERRED DET 2, 372ND MILITARY POLICE COMPANY, CUMBERLAND, MD 21502				10. SGLI COVERAGE <input type="checkbox"/> Nor Amount: \$ 150,000.00		
11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.) 63B10 00 LIGHT VVEH MECH--2 YRS-9 MOS //NOTHING FOLLOWS		12. RECORD OF SERVICE				
		a. Date entered AD This Period		Year(s)	Month(s)	Day(s)
		b. Separation Date This Period		2001	08	04
		c. Net Active Service This Period		2002	03	11
		d. Total Prior Active Service		0000	07	08
		e. Total Prior Inactive Service		SEE	BLOCK	#18
		f. Foreign Service		SEE	BLOCK	#18
		g. Sea Service		0000	00	00
h. Effective Date of Pay Grade		2001	05	30		
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service) ARMY ACHIEVEMENT MEDAL (2ND AWARD)//NATIONAL DEFENSE SERVICE MEDAL//ARMED FORCES EXPEDITIONARY MEDAL//ARMY SERVICE RIBBON//SHARPSHOOTER MARKSMANSHIP QUALIFICATION BADGE WITH RIFLE BAR//SHARPSHOOTER MARKSMANSHIP QUALIFICATION BADGE WITH PISTOL BAR//SHARPSHOOTER MARKSMANSHIP QUALIFICATION BADGE WITH GRENADE BAR//NOTHING FOLLOWS						
14. MILITARY EDUCATION (Course title, number of weeks and month and year completed) NONE//NOTHING FOLLOWS						
15.a MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERAN'S EDUCATIONAL ASSISTANCE PROGRAM		Yes	No	15.b HIGH SCHOOL GRADUATE OR EQUIVALENT		
			X	Yes No		
			X	16. DAYS ACCRUED LEAVE PAID .5		
17. MEMBER WAS PROVIDED A COMPLETE DENTAL EXAM AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						
18. REMARKS DATA HEREIN SUBJECT TO COMPUTER MATCHING WITHIN DOD OR WITH OTHER AGENCIES FOR VERIFICATION PURPOSES AND DETERMINING ELIGIBILITY OR COMPLIANCE FOR FEDERAL BENEFITS//SEPARATED FROM SERVICE ON TEMPORARY RECORDS AND SOLDIER'S AFFIDAVIT//DD FORM 215 WILL BE ISSUED TO PROVIDE MISSING INFORMATION//INDIVIDUAL COMPLETED PERIOD FOR WHICH ORDERED TO ACTIVE DUTY FOR PURPOSE OF POST SERVICE BENEFITS AND ENTITLEMENTS//ORDERED TO ACTIVE DUTY IN SUPPORT OF CONTINGENCY OPERATION JOINT FORGE IAW 10 USC 12304//SERVICE IN BOSNIA 20010624 TO 20020222//CONT FROM BLOCK 13: ARMED FORCES RESERVE MEDAL W "M" DEVICE//NATO MEDAL//NOTHING FOLLOWS						
19.a MAILING ADDRESS AFTER SEPARATION (Include Zip Code) [REDACTED]			19.b NEAREST RELATIVE (Name and address, include Zip Code) DAN SIVITS [REDACTED]			
20. MEMBER REQUESTS COPY 4 BE SENT TO DA DIR OF MIL AFFAIRS <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						
21. SIGNATURE OF MEMBER BEING SEPARATED [REDACTED]						
22. OFFICIAL AUTHORIZED TO SIGN (Name and signature) [REDACTED] DIR, MILITARY PERSONNEL						
SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)						
23. TYPE OF SEPARATION RELEASE FROM ACTIVE DUTY		24. CHARACTER OF SERVICE (Include upgrades) HONORABLE				
25. SEPARATION AUTHORITY AR 635-200, CHAP 4		26. SEPARATION CODE MBK		27. REENTRY CODE NA		
28. NARRATIVE REASON FOR SEPARATION COMPLETION OF REQUIRED ACTIVE SERVICE						
29. DATES OF TIME LOST DURING THIS PERIOD				30. MEMBER REQUESTS COPY 4 [REDACTED]		

AFZA-AP-CO

22 Apr 04

MEMORANDUM FOR Investigating Officer, U.S. v SPC Sivits

SUBJECT: Decision on Second Request for Delay


1. I have reviewed the enclosed Defense Second Request for Delay in the case of U.S. vs SPC Jeremy C. Sivits, HHC, 16th MP BDE (ABN).

2. ____ The second request for delay is disapproved.

OR

3. ☒ The second request for delay is approved, and the Article 32(b) session in the case of U.S. vs Sivits will be rescheduled for 5 May 2004.

Encl
as


COL, MP
Commanding

006002



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
BAGHDAD FIELD OFFICE
CJTF-7, III CORPS/SJA
APO AE 09342

REPLY TO
ATTENTION OF

AFZH-JA-TDS

20 April 2004

MEMORANDUM THRU MAJ [REDACTED]

FOR: COL [REDACTED], Commander, 16th MP BDE

SUBJECT: Request for Delay in Article 32 Investigation of SPC Jeremy Sivits

1. The defense respectfully requests a delay in the above-referenced Article 32 investigation scheduled for 21 April 2004. Previous requests for a delay were submitted by SPC Sivits' defense counsel(s) to MAJ [REDACTED] via e-mail on 16 April 2004; 19 April 2004 and 20 April 2004. I was detailed as SPC Sivits' new defense counsel last week but have not yet received any of the case file from his former defense counsel.
2. A delay is necessary because I need adequate time to prepare for the hearing. "An unprepared counsel at an Article 32 hearing is tantamount to no counsel at all, and to that extent, it denies an accused his right to effective assistance of counsel." United States v. Miro, 22 M.J. 509 (A.F.C.M.R. 1986). Given the amount of evidence and witnesses likely to be requested, the anticipated size of the file and the seriousness of the charges against SPC Sivits, the defense needs until at least 12 May 2004 to adequately prepare for the hearing.
3. In addition to the foregoing, SPC Sivits is retaining civilian counsel in this matter. R.C.M. 405(d)(2)(C) provides in pertinent part that "[u]pon request, the accused is entitled to a reasonable time to obtain civilian counsel and to have such counsel present for the investigation." A request until at least 12 May 2004 is reasonable and will not unduly delay the investigation.
4. POC is the undersigned at DNVT 538- [REDACTED]

[REDACTED]
1LT, JA
Defense Counsel

006003

[REDACTED] M CPT CJTF7 16MP

From: [REDACTED] COL CJTF7-16MP BDE CDR
Sent: Wednesday, April 21, 2004 9:01 PM
To: [REDACTED] CPT CJTF7 16MP
Cc: [REDACTED] M 1LT CJTF7-OPS OSJA; [REDACTED] CJTF7-TRIAL DIFENCE SERVICE;

Subject: RE: Sivits-Art.32 Delay

Roger...I have no problem with that as well...
ATW!

[REDACTED]
COL, MP
Commander,
16th Military Police Brigade (Airborne)
DNVT: (302)559-[REDACTED]

-----Original Message-----

From: [REDACTED] CPT CJTF7 16MP
Sent: Tuesday, April 20, 2004 10:09 AM
To: [REDACTED] COL CJTF7-16MP BDE CDR
Cc: [REDACTED] 1LT CJTF7-OPS OSJA; [REDACTED] 1LT CJTF7-TRIAL DIFENCE SERVICE;

Subject: RE: Sivits-Art.32 Delay

Sir:

The government has no objection to a delay for two weeks until 5 May 04

This should be ample time to prepare.

VR

[REDACTED]
16th MP BDE (ABN)
Trial Counsel
302-588-[REDACTED]
AIRBORNE!

-----Original Message-----

From: [REDACTED] CJTF7-TRIAL DIFENCE SERVICE
Sent: Tuesday, April 20, 2004 4:49 PM
To: [REDACTED] COL CJTF7-16MP BDE CDR;
Cc: [REDACTED] CPT CJTF7 16MP; [REDACTED] 1LT CJTF7-OPS OSJA
Subject: Sivits-Art.32 Delay

Sir:

Attached please find the defense's request that the Article 32 investigation of SPC Jeremy Sivits be delayed.

AFZH-JA-TDS

20 April 2004

006004

4/22/2004

AFZA-AP-CO

6 Apr 04

MEMORANDUM FOR Investigating Officer, U.S. v SPC Sivits

SUBJECT: Decision on Request for Delay


1. I have reviewed the enclosed Defense Request for Delay in the case of U.S. vs SPC ~~Megan M.~~ Sivits, HHC, 16th MP BDE (ABN).

2. ____ The request for delay is disapproved.

OR

3. ☒ The request for delay is approved, and the Article 32(b) session in the case of U.S. vs Sivits will be rescheduled for 21 April 2004.

Encl
as


COL, MP
Commanding

006005



DEPARTMENT OF THE ARMY
U.S. ARMY TRIAL DEFENSE SERVICE
REGION IX
FORWARD OPERATING BASE SPEICHER
TIKRIT, IRAQ

REPLY TO
ATTENTION OF

AFZF-JA-TDS

06 April 2004

MEMORANDUM FOR Investigating Officer

SUBJECT: Article 32(b) Investigation Delay Request - SPC Jeremy C. Sivits,
Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps,
Victory Base, Iraq APO AE 09342

1. The defense requests a delay in the Article 32 investigation from 07 April 2004 to a date on or about 21 April 2004. I have had difficulties with transportation and it has kept me from meeting SPC Sivits. I intend to meet him on 06 April 2004. The reason for the delay is also to allow the defense adequate time to prepare for SPC Sivits' hearing. He has not had an opportunity to review the case file. SPC Sivits needs time to review the file before he can decide to move forward with the Article 32.
2. The defense will be credited with the delay.
3. POC is the undersigned at 553- [REDACTED]

[REDACTED]
CPT, JA
Defense Counsel

006006

AFZA-AP-IO

MEMORANDUM FOR Commander, 16th Military Police Brigade (Airborne),
Victory Base, Iraq APO AE 09342

SUBJECT: Request for Delay

1. In the case of U.S. vs SPC Jeremy C. Sivits, HHC, 16th MP BDE (ABN), the Defense has submitted the attached request for delay until 21 April 2004.
2. The Article 32 was initially scheduled for 7 April 2004. Defense counsel received the case file on 26 March 2004, and is based FOB Danger in Tikrit. Defense needs more time to coordinate transportation, and meet with its client to go over the entire case file.
3. The Trial Counsel does not object to the delay.
4. I concur with both counsel and recommend that the request for delay be approved.
5. The POC for this memo is the undersigned at 559-██████.

Encl
as

████████████████████
MAJ, MP
Investigating Officer

006007

DEPARTMENT OF THE ARMY
Headquarters
391st Military Police Battalion
Victory Base, Iraq APO AE 09335

AFZA-AP-IO

3 April 2004

MEMORANDUM FOR SPC Jeremy C. Sivits,
Victory Base, Iraq APO AE 09342

, HHC, 16th MP Bde (Abn),

SUBJECT: Notification of Article 32 Investigation

1. On 7 April 2004, at 1000 hours in the 16th Military Police Brigade (Airborne) Sullivan Room (Forward), bldg 112, Victory Base, Iraq. I will conduct an investigation pursuant to Article 32(b), UCMJ to investigate the facts and circumstances concerning charges preferred against you by CPT [REDACTED]. The charges are:

- Charge I: Conspiracy
- Charge II: Dereliction of Duty
- Charge III: Maltreatment

2. You have the right to be present during the entire investigation. Additionally, you have the right to be represented at all times during investigation by legally qualified counsel. Counsel may be a civilian lawyer of your choice, provided at no expense to the United States; a qualified military lawyer of your selection, if reasonably available; or a qualified military counsel detailed by the Trial Defense Service. There is no cost to you for military counsel. You also have the right to waive representation by counsel. Send your decision to me by 1200 hours, 5 April 2004.

3. The names of witness known to me, who will be asked to testify at the hearing, are:

- a. SA [REDACTED], CID Agent, DNV 302-550-[REDACTED]

Additionally, it is my intention to examine and consider all evidence.

4. As investigating officer, I will try to arrange for the appearance of any witnesses that you want to testify at the hearing. ~~Send names and addresses of such witnesses to me~~ by 1200 hours, 5 April 2004. If, at a later time, you identify additional witnesses, inform me of their names, phone numbers and/or addresses.

006008

AFZA-AP-IO
SUBJECT: Notification of Article 32 Investigation

5. You may contact me at _____.

[REDACTED]

MAJ, MP
Investigating Officer

Received by: _____
JEREMY C. SIVITS, SPC

Date: _____

000009