

R E C O R D O F T R I A L

of

TAYLOR, Alan R.

(b)(6)

Sgt/E-5

3dBn, 5thMar, 1stMarDiv

USMC

Camp Pendleton, CA

By

Special Court-Martial

Convened by Commanding Officer

3d Battalion, 5th Marines
1st Marine Division (REIN)

Tried at

Camp Pendleton, California, on 13 Jan, 4 Feb, and 30 Mar 2004

=====

C O P I E S O F R E C O R D

_____ copy of record furnished the accused or defense counsel as per attached certificate or receipt.

_____ copy (ies) of record forwarded herewith.

R E C E I P T F O R C O P Y O F R E C O R D

I hereby acknowledge receipt of a copy of the record of trial of United States v's. Sgt A. R. Taylor, delivered to me at _____ this ____ day of _____.

I do / do not have matters to submit pursuant to R.C.M. 1105 and 1106 MCM, 2000.

Capt W. A. Folk,
U.S. Marine Corps Reserve

PROCEEDINGS OF A SPECIAL COURT-MARTIAL

The military judge called the Article 39(a) session to order at Camp Pendleton, California, in the case of the *United States versus Sergeant Alan R. Taylor, U.S. Marine Corps*, at 0810, 13 January 2004, pursuant to the following order:

[END OF PAGE]



UNITED STATES MARINE CORPS
3D BATTALION 5TH MARINES
1ST MARINE DIVISION (REIN), FMF
BOX 555401
CAMP PENDLETON, CA 92055-5401

IN REPLY REFER TO:
5813
Legal
CMCO Ser:#2a-02
25 Mar 04

SPECIAL COURTS-MARTIAL CONVENING ORDER #2a-02

Special Courts-Martial Convening Order #2a-02 dated 26 Jul 2002 is modified as follows specifically for U.S. v. Sergeant A. R. Taylor, U.S. Marine Corps only:

Delete

Major Craig R. Wonson, U. S. Marine Corps;
Captain Michael T. Miller, U. S. Marine Corps;
Captain James M. Koehler, U. S. Marine Corps;
First Lieutenant Kent D. Domme, U. S. Marine Corps;
First Lieutenant Alexander W. D'Amico, U. S. Marine Corps

Add

Captain Brendan P. Collins, U. S. Marine Corps;
Captain Brian D. Wirtz, U. S. Marine Corps;
First Lieutenant Benjamin D. Everett, U. S. Marine Corps Reserve;
Second Lieutenant Joshua W. Burgess, U. S. Marine Corps Reserve;
First Sergeant Warren B. Robinson, U. S. Marine Corps;
Gunnery Sergeant Sheldon N. Jeffery U. S. Marine Corps;
Staff Sergeant Paul P. Starner, U. S. Marine Corps;
Staff Sergeant Jonathan D. Jackson, U. S. Marine Corps

Members

Captain Brendan P. Collins, U. S. Marine Corps;
Captain Brian D. Wirtz, U. S. Marine Corps;
First Lieutenant Benjamin D. Everett, U. S. Marine Corps Reserve;
Second Lieutenant Joshua W. Burgess, U. S. Marine Corps Reserve;
First Sergeant Warren B. Robinson, U. S. Marine Corps;
Gunnery Sergeant Sheldon N. Jeffery U. S. Marine Corps;
Staff Sergeant Paul P. Starner, U. S. Marine Corps;
Staff Sergeant Jonathan D. Jackson, U. S. Marine Corps

P. J. Malay
P. J. MALAY
Lieutenant Colonel
United States Marine Corps
Commanding

ORIGINAL



UNITED STATES MARINE CORPS
3D BATTALION, 5TH MARINES
1ST MARINE DIVISION (REIN), FMF
BOX 555483
CAMP PENDLETON, CA 92055-5483

IN REPLY REFER TO:
5813
EBH
CMCO Ser:#2-02
26 Jul 2002

SPECIAL COURT-MARTIAL CONVENING ORDER 2-02

Pursuant to authority contained in paragraph 0120b(3), Judge Advocate General of the Navy Instruction 5800.7C, of 3 October 1990, a special court-martial is convened and may proceed at Marine Corps Base, Camp Pendleton California, or at any such authorized place as directed with the following members:

Major C. R. Wonson, U.S. Marine Corps;
Captain M. T. Miller, U.S. Marine Corps;
Captain J. M. Koehler, U.S. Marine Corps;
First Lieutenant K. D. Domme, U.S. Marine Corps; and
First Lieutenant A. W. D'Amico, U.S. Marine Corps;

C. E. Mundy III

C. E. MUNDY III
Lieutenant Colonel
United States Marine Corps
Commanding

Certified true copy
[Signature]

PERSONS PRESENT

MILITARY JUDGE: Major D. S. Oliver, USMC
TRIAL COUNSEL: Captain R. M. Manning, USMC
DEFENSE COUNSEL: Captain W. A. Folk, USMCR

The members were absent.

The accused, Sergeant Alan R. Taylor, U. S. Marine Corps, was present and attired in the appropriate uniform and was entitled to wear the Combat Action Ribbon, Presidential Unit Citation, Good Conduct Medal, National Defense Service Medal, and the Sea Service Deployment Ribbon, second award.

Sergeant M. Medina, U.S. Marine Corps, the detailed court reporter who had been previously sworn, was present.

The trial counsel announced his legal qualifications and status as to oath, that he had been detailed by the Senior Trial Counsel, Legal Services Support Section, Legal Team Delta, Camp Pendleton, California, and that he had acted in no disqualifying capacity.

The detailed defense counsel announced his legal qualifications and status as to oath, that he had been detailed by the Senior Defense Counsel, Legal Services Support Section, Legal Team Delta, Camp Pendleton, California, that he had acted in no disqualifying capacity, and that no other defense counsel had been detailed to the case.

The military judge advised the accused of his rights concerning counsel as set forth in Article 38(b) and R.C.M. 901(d).

The accused stated that he understood his rights with respect to counsel and that he chose to be defended solely by Captain W. A. Folk, his detailed defense counsel.

The military judge stated his legal qualifications and status as to oath and that he had been detailed by the Circuit Military Judge, Sierra Judicial Circuit, Navy-Marine Corps Trial Judiciary. The prosecution and the accused were extended the right to challenge the military judge for cause. The military judge was not challenged for cause.

After ascertaining that the accused had consulted with his defense counsel and understood his right to request trial by military judge alone and his right to be tried by members, including enlisted members if he so desired, the military judge granted the accused's request to reserve forum selection.

Lieutenant Colonel C. E. Mundy, III, the prior commanding officer of 3d Battalion, 5th Marines, 1st Marine Division (Rein), convened the court-martial by Special Court-Martial Convening Order 2-02 dated 26 July 2002 as amended by Special Court-Martial Convening Order 2a-02 dated 25 March 2004, and Lieutenant Colonel (b)(6) the current Commanding Officer of 3d Battalion, 5th Marines, 1st Marine Division (Rein), referred the charges and specifications to it.

The accused waived the reading of the charges and specifications.

The accused was arraigned on the following charges and specifications:

[END OF PAGE]

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI) TAYLOR, Alan R.		2. SSN (b)(6)	3. RANK/RATE Sgt	4. PAY GRADE E-5
5. UNIT OR ORGANIZATION 3rdBn, 5thMar, 1stMarDiv, CampPen, CA 92055			6. CURRENT SERVICE	
			a. INITIAL DATE 5 Dec 02	b. TERM 4 yrs
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED	
a. BASIC 1991.10	b. SEA/FOREIGN DUTY None	c. TOTAL 1991.10	None	
\$1903.50		\$1903.50		
			9. DATE(S) IMPOSED N/A	

II. CHARGES AND SPECIFICATIONS

10. CHARGE I: VIOLATION OF THE UCMJ ARTICLE 92

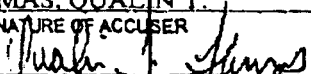
SPECIFICATION 1: In that Sergeant Alan R. Taylor, U.S. Marine Corps, on active duty, who knew of his duties, did, at Ad Diwaniyah, Iraq, between on or about 1 June 2003 to on or about 6 July 2003, was derelict in the performance of those duties in that he willfully failed to stop Corporal Scott A. Burton, U.S. Marine Corps, Corporal (b)(6) U.S. Marine Corps, and Corporal (b)(6) U.S. Marine Corps from locking Iraqi detainees into an abandoned tank.

SPECIFICATION 2: In that Sergeant Alan R. Taylor, U.S. Marine Corps, on active duty, who knew of his duties, did, at Ad Diwaniyah, Iraq, between on or about 1 June 2003 to on or about 6 July 2003, was derelict in the performance of those duties in that he willfully failed to stop Corporal Scott A. Burton from spraying an Iraqi detainee with the contents of a fire extinguisher in the face and on the body.

SPECIFICATION 3: In that Sergeant Alan R. Taylor, U.S. Marine Corps, on active duty, who knew of his duties, did, at Ad Diwaniyah, Iraq, between on or about 1 June 2003 to on or about 6 July 2003, was derelict in the performance of those duties in that he willfully failed to stop Corporal Scott A. Burton from lining up Iraqi detainees in front of foxholes, placing his 9mm pistol into condition one behind them, and then firing a round next to one of the detainees heads.

(CONTINUED ON SUPPLEMENTAL PAGE)

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI) THOMAS, QUALIN T.		b. GRADE PFC	c. ORGANIZATION OF ACCUSER SvcCo, HqSvcBn, 1stFSSG
d. SIGNATURE OF ACCUSER 			e. DATE 031002

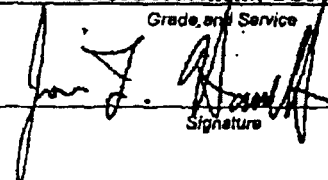
AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 7th day of October, 2003, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military 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.

J. F. HAMILTON

Typed Name of Officer

First Lieutenant, USMCR

Grade and Service


Signature

HqSvcBn, 1stFSSG, MarForPac, CampPen, CA

Organization of Officer

Judge Advocate

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

CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 93

SPECIFICATION 1: In that Sergeant Alan R. Taylor, U.S. Marine Corps, on active duty, did, at Ad Diwaniyah, Iraq, between on or about 1 June 2003 to on or about 6 July 2003, maltreat Iraqi detainees, persons subject to his orders by locking them in an abandoned tank.

SPECIFICATION 2: In that Corporal Alan R. Taylor, U.S. Marine Corps, on active duty, did, at Ad Diwaniyah, Iraq, between on or about 1 June 2003 to on or about 6 July 2003, maltreat an Iraqi detainee, a person subject to his orders, by spraying the detainee with a fire extinguisher.

SPECIFICATION 3: In that Corporal Alan R. Taylor, U.S. Marine Corps, on active duty, did, at Ad Diwaniyah, Iraq, between on or about 1 June 2003 to on or about 6 July 2003, maltreat Iraqi civilian detainees, persons subject to his orders, by forcing the detainees to kneel in front of fighting holes while a pistol was drawn behind them and a round was fired next to the head of one of the detainees.

CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 128

SPECIFICATION 1: In that Corporal Alan R. Taylor, U.S. Marine Corps, on active duty, did, at Ad Diwaniyah, Iraq, between on or about 1 June 2003 to on or about 6 July 2003, commit an assault upon an Iraqi detainee by firing a round next to his head with a dangerous weapon, to wit: a loaded service pistol.

SPECIFICATION 2: In that Corporal Alan R. Taylor, U.S. Marine Corps, on active duty, did, at Ad Diwaniyah, Iraq, between on or about 1 June 2003 to on or about 6 July 2003, unlawfully strike an Iraqi detainee by spraying his face and body with a fire extinguisher.

The military judge granted the accused's request to reserve motions and pleas until the next trial date.

The military judge summarized an 802 conference held between all parties in the presence of the accused before coming on the record. Both counsel agreed with the military judge's summation.

The Article 39(a) session recessed at 0821, 13 January 2004.

AUTHENTICATION OF THE RECORD OF TRIAL

pages 1-4

in the case of

Sergeant Alan R. Taylor (b)(6), U.S. Marine Corps,
3d Battalion, 5th Marines, 1st Marine Division (REIN), Camp
Pendleton, California 92055.



B. S. OLIVER
Major, U.S. Marine Corps
Military Judge

7 May 84

The Article 39(a) session was called to order at 0855,
4 February 2004.

PERSONS PRESENT

MILITARY JUDGE: Major P. J. Ware, USMC
TRIAL COUNSEL: Captain R. M. Manning, USMC
DEFENSE COUNSEL: Captain W. A. Folk, USMCR

The members were absent.

The accused, Sergeant Alan R. Taylor, U. S. Marine Corps, was present.

The military judge stated his legal qualifications and status as to oath and that he had been detailed by the Circuit Military Judge, Sierra Judicial Circuit, Navy-Marine Corps Trial Judiciary. The prosecution and the accused were extended the right to challenge the military judge for cause. The military judge was not challenged for cause.

Sergeant R. M. Grismore, U.S. Marine Corps, the detailed court reporter who had been previously sworn, was present.

Appellate Exhibit I, a trial schedule, was marked.

The accused was given a trial in absentia warning.

The Article 39(a) session recessed at 0900, 4 February 2004.

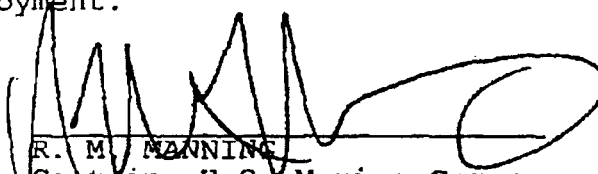
AUTHENTICATION OF THE RECORD OF TRIAL

page 6

in the case of

Sergeant Alan R. Taylor ^{(b)(6)}, U.S. Marine Corps,
3d Battalion, 5th Marines, 1st Marine Division (REIN), Camp
Pendleton, California 92055.

Pursuant to R.C.M. 1104(a)(2)(B), the record of trial in the
foregoing case is authenticated by the trial counsel due to the
military judge's overseas deployment.


R. M. MANNING
Captain, U.S. Marine Corps
Military Judge

040802

The Article 39(a) session was called to order at 0835,
29 March 2004.

PERSONS PRESENT

MILITARY JUDGE: Major D. M. Jones, USMC
TRIAL COUNSEL: Captain R. M. Manning, USMC
ASSISTANT TRIAL COUNSEL: First Lieutenant A. M. Pettes, USMC
DEFENSE COUNSEL: Captain W. A. Folk, USMCR

The members were absent.

The accused, Sergeant Alan R. Taylor, U. S. Marine Corps, was present.

Staff Sergeant D. D. Wyss, U.S. Marine Corps, the detailed court reporter who had been previously sworn, was present.

The assistant trial counsel announced his legal qualifications and status as to oath, that he had been detailed by the Senior Trial Counsel, Legal Services Support Section, Legal Team Delta, Camp Pendleton, California, and that he had acted in no disqualifying capacity.

The accused stated the he still desired to be represented by his detailed defense counsel, Captain Folk.

The military judge stated his legal qualifications and status as to oath and that he had been detailed by the Circuit Military Judge, Sierra Judicial Circuit, Navy-Marine Corps Trial Judiciary. The prosecution and the accused were extended the right to challenge the military judge for cause. The military judge was not challenged for cause.

After ascertaining that the accused had consulted with his defense counsel and understood his right to request trial by military judge alone and his right to be tried by members, including enlisted members if he so desired, the military judge granted the accused's request to be tried by a court composed of members with enlisted representation.

The military judge summarized an 802 conference held between all parties in the presence of the accused before coming on the record. Both counsel agreed with the military judge's summation.

The defense had no motions to present.

The accused pled as follows:

Specification 1 under Charge I:	Guilty;
Specification 2 under Charge I:	Not Guilty;
Specification 3 under Charge I:	Guilty;
To Charge I:	Guilty.
To Charge II and Charge III and all specifications thereunder:	Not Guilty.

The Article 39(a) session recessed at 0841, 29 March 2004.

The Article 39(a) session was called to order at 0845,
29 March 2004.

All parties present when the Court recessed were once again present.

The military judge inquired into the providence of the accused's pleas of guilty. The military judge informed the accused of his right to plead not guilty and to be tried by a court-martial and that at such court-martial the accused would have the right to confront and cross-examine the witnesses against him and the right against self-incrimination; that by pleading guilty the accused waived his rights to a trial of the offense, to confront and cross-examine the witnesses against him, and his right against self-incrimination; and that the military judge would question the accused about the offense to which the accused pleaded guilty and that if the accused answered those questions under oath, on the record, and in the presence of counsel, his answers, if false, could be used against the accused in a prosecution for perjury or false statement. The accused stated that he understood these rights and desired to waive them for the offenses to which he was pleading guilty.

The military judge questioned the accused and determined that his pleas of guilty were made voluntarily and were not the result of force or violence or promises.

The military judge informed the accused of the elements of the offenses and the maximum punishment which could be imposed for the offenses. The accused stated that he understood.

The military judge asked the accused about the offenses to which the accused pleaded guilty. Under oath, the accused testified substantially as follows:

Block 6a on the charge sheet should read 5 December 2002 for a period of four years, and my base pay should be \$1,991.10 per month. All of the other information contained in blocks 1 through 9 on the charge sheet is correct. I am currently on active duty in the United States Marine Corps. At the time of these offenses, I was on active duty, and I have never been discharged or released from active duty since 5 December 2002. My name and rank is correctly stated in each of the specifications.

I had a duty between on or about 1 June 2003 to on or about 6 July 2003 to act properly as a squad leader in Iraq, to properly conduct patrols and handle apprehended Iraqis according to rules and regulations. As a squad leader, I was in charge of all patrols, planning, and everything that happened on the patrols as far as what happened to the prisoners and the welfare of my Marines and so forth. I was the squad leader for Weapons Company, 3d Battalion, 5th Marines. I had been the squad leader for 3 months, and I had been trained all the way up through the rank structure and understood my duties.

I had training on what to do with Iraqi detainees that my patrol came across and apprehended. That training told me to take them to the prison or take them back to camp. My training did not involve locking Iraqi detainees into an abandoned tank. My platoon commander, Lieutenant (b)(6) assigned me my duties as patrol leader. I understood what I was supposed to do as the squad leader when we came upon detainees.

I was assigned this duty in May of 2003. The instructions that I was given included ensuring the safety of my Marines. I would go over the routes, brief them to the platoon commander, handle any detainees or any problems while out on patrol. My specific instructions regarding detainees were to normally take them to the prison and check them in there. I did not properly perform the duty with regard to the detainees on this occasion in this specification.

This dereliction was a willful act on my part. Even though I was not the Marine who physically locked the detainees into the tank, I was derelict in my duties because I failed to stop my team leaders from doing so. I should have said something and stopped them and kept on with the higher standards of the Marine Corps and not let that happen. I could have properly performed my duties if I had wanted to. I had the physical capability to do so. I did not have any permission or authority to be derelict in my performance as a squad leader of Weapons Company, 3d Battalion, 5th Marines. I should have stopped the Marines from putting the Iraqis in the tank and kept good order within my squad. I believe

that I should have stopped them from putting the Iraqis into an abandoned tank because it's not in accordance with the regulations on how we should have handled the detainees and it's not good for the morale of the Iraqis.

I do believe that I had the capability to perform my duties, and I was willfully derelict in not performing my duties as a squad leader to ensure that Iraqi detainees were treated according to rules and regulations. Those rules and regulations would include the segregation and other five S's that I was supposed to do with prisoners or detainees. I abandoned those rules and regulations in this situation by letting my Marines put the Iraqi detainees into an abandoned tank.

I believe that was a willful dereliction of duty because we were there to win the hearts and minds of the Iraqis and doing something like this did not win the hearts and minds of the Iraqis. I agree that this was not the proper thing to do with the detainees, and it was against the rules and regulations as I knew them. On this particular patrol during this particular time frame when the Iraqi detainees were put into the abandoned tank, my actual billet was the squad leader and my role on the patrol was a patrol leader. That is why I had the duty to prevent the Marines from locking the detainees into an abandoned tank.

The events in Specification 3 of Charge I occurred on the same day as Specification 1 of Charge I. I was the patrol leader and squad leader when this event occurred. This is the same Corporal Burton that we discussed in Specification 1. He was one of my fire team leaders.

I believe on this occasion that my duties were the same and I was derelict in my duties. I believe my duties on this occasion consisted of patrol leader, making sure of the welfare of my Marines and the patrol was conducted in a military manner, and also to keep Corporal Burton from firing off the weapon next to the Iraqi detainee's head.

I did not actually do this act; I was the squad leader, the patrol leader, in charge and so I was derelict by allowing this act to occur. I was aware that this conduct, that is, the lining up of Iraqi detainees in front of foxholes, Corporal Burton placing his 9-millimeter pistol into condition one behind the detainees, and then firing a round next to one of the detainees' heads was wrong. I knew I had the duty on this occasion to properly supervise and act as the squad leader in dealing with apprehended or detained Iraqis.

I believe Corporal Burton had three Iraqi detainees lined up in front of the foxholes. On this occasion the Iraqis were actually placed in front of foxholes, a 9-millimeter pistol was placed into condition one behind them, and then a round was fired next to one of the detainees' heads like it's alleged in the specification. I understood my duties to properly supervise my Marines and to make sure that Iraqis who were detained or apprehended were treated according to rules and regulations.

I believe I was willfully derelict in my duties because I should have stopped Corporal Burton from firing a pistol next to the Iraqi detainees' head because we were there to win the hearts and minds and this did not help in our mission. Not only did it not help in our mission, it was not pursuant to rules and regulations which would forbid that sort of conduct. I agree that the dereliction was a willful failure to act on my part. I understand that dereliction of duty can be negligent or willful and that in both specifications the government alleged willful, and I agree that my conduct was willful..

I could have performed my duties properly as a squad leader and patrol leader of Corporal Burton if I had wanted to. I did not have authority on either one of these occasions, in the two specifications, to be derelict in my duties and fail to stop my Marines from engaging in this conduct. I did not think I had any permission or authority. On this specific occasion I could have kept tighter control of my Marines and watched closer what Corporal Burton was doing with his pistol.

This occasion occurred on the same day as the other specification. There was a difference of a few hours between the two occasions. Both of these instances happened on the same patrol within about a four to six-hour time frame.

I believe and admit that taken together the elements of these offenses and the matters we just discussed, to include the definitions of "willful" and "dereliction of duty," correctly describe what I did on each of these two occasions.

The Article 39(a) session recessed at 0912, 29 March 2004.

The Article 39(a) session was called to order at 0924, 29 March 2004.

All parties present when the Court recessed were once again present.

The military judge ascertained that there was a pretrial agreement in this case which had been marked as Appellate Exhibit VIII.

The military judge inquired into all but the sentencing provisions of the pretrial agreement and ensured that the accused understood the pretrial agreement and that the parties agreed to its terms.

The military judge ascertained by questioning the accused and counsel that there were no other off-the-record or gentlemen's agreements, either oral or in writing, that pertain to the accused's pleas of guilty.

The military judge found that the accused knowingly, intelligently, and consciously waived his rights against self-incrimination, to a trial of the facts by a court-martial, and his right to confront the witnesses against him. The military judge found the accused's pleas were made voluntarily and with a factual basis and he accepted them.

The trial counsel made a motion to withdraw and dismiss without prejudice to ripen into a dismissal with prejudice Specification 2 of Charge I and Charge II and the specifications thereunder. The military judge granted that motion.

The military judge announced the following findings:

To the charge and two specifications thereunder:	Guilty.
---	---------

The military judge ascertained that the data as to pay, service, and restraint of the accused as shown on the charge sheet was correct. The military judge noted that there was no pretrial confinement.

The military judge advised the accused of his right to present matters in extenuation and mitigation, including his right to make a sworn or an unsworn statement or to remain silent. In response to the military judge, the accused stated that he did desire to exercise his rights in extenuation and mitigation.

Without objection from the defense, the trial counsel requested that the matters addressed during the providence inquiry be played back for the members' consideration on sentencing. The military judge granted the request.

The military judge, trial counsel, and defense counsel discussed the proposed voir dire of the members.

The trial counsel offered Prosecution Exhibit 1 for identification, a copy of the right side of the accused's SRB. The defense counsel objected that the (b)(6) contained therein were over two years old. The military judge sustained the objection and instructed the trial counsel to remove that page, page 6, from the copies to be given to the members. The military judge admitted into evidence Prosecution Exhibit 1.

The Article 39(a) session recessed at 0952, 29 March 2004.

The Article 39(a) session was called to order at 1042, 29 March 2004.

All parties present when the Court recessed were once again present. The members were absent.

The following members entered the courtroom:

Captain Brendan P. Collins, U.S. Marine Corps;
Captain Brian D. Wirtz, U.S. Marine Corps;
First Lieutenant Benjamin D. Everett, U.S. Marine Corps Reserve;
Second Lieutenant Joshua W. Burgess, U.S. Marine Corps Reserve;
First Sergeant Warren B. Robinson, U.S. Marine Corps;
Gunnery Sergeant Sheldon N. Jeffery, U.S. Marine Corps;
Staff Sergeant Paul A. Starner, U.S. Marine Corps;
Staff Sergeant Jonathan D. Jackson, U.S. Marine Corps.

The members were sworn in accordance with R.C.M. 807.

The military judge announced that the court-martial was assembled.

The members examined the charges submitted to them for sentencing.

The military judge advised the members that the accused was found guilty by the military judge of the offenses to which the accused pled guilty and that the members would be sentencing the accused to an appropriate punishment.

The military judge presented preliminary instructions to the members as to their duties and the conduct of the proceedings.

The military judge, trial counsel, and defense counsel conducted voir dire of the members collectively and individually. All members except Staff Sergeant Starner and Staff Sergeant Jackson were questioned individually.

Captain Wirtz, member, was questioned concerning his duties as reporting senior for other members of the court-martial, and

stated under oath as follows:

I will be writing one non-observed fitness report on First Lieutenant (b)(6) which the ending date is today, and I will also be preparing a fitness report for Staff Sergeant Starner. My billet is the Commanding Officer, Kilo Company, 3/5. I have not worked directly with First Lieutenant Everett since I've taken command. He has been the guard officer for the 62 Area. He is coming back from guard, and he is going directly to another company. Staff Sergeant (b)(6) will be taking the billet of platoon commander as of today. He has worked for me as a platoon sergeant up until today, and he will be moving up to the billet of a platoon commander for a period of about one month. He has been a platoon sergeant for approximately one month. I have not yet prepared any fitness reports on him.

The court-martial recessed at 1216, 29 March 2004.

The court-martial was called to order at 1226, 29 March 2004.

All parties present when the Court recessed were again present. The members were absent.

The government had no challenge for cause.

The defense counsel challenged Captain (b)(6) for cause due to his duty as the reporting senior for two of the other members of the court-martial. The challenge was denied. Neither side had any further challenges for cause.

The government had no peremptory challenge.

The defense counsel imposed his peremptory challenge upon First Sergeant (b)(6)

The members entered the courtroom. The member who was peremptorily challenged was excused from the court-martial.

The military judge presented further instructions to the members as to their duties and the conduct of the proceedings.

The court-martial recessed at 1235, 29 March 2004.

The court-martial was called to order at 1311, 29 March 2004.

All parties present when the Court recessed were again present. The members were absent.

around the 0700 time frame, and there was a perimeter patrol around our compound. A perimeter patrol was a patrol around the compound to make sure that the area around our compound was secure and that there was nothing unusual going on.

The compound was outside the city of Ad Diwaniyah. The compound was for Saddam's army before the Marines actually made it a compound. I was at this compound for two weeks before this patrol. I was there a little longer than the rest of my platoon because I was on the advance party.

This particular patrol consisted of about ten Marines. I'm not sure about the number, but it was over five. This was a mobile patrol. We used two HMMWV's. Sergeant Taylor was riding in my HMMWV during this patrol. I believe Lance Corporal (b)(6) and Lance Corporal (b)(6) [ph] were also in our vehicle. But the rest of the Marines in our vehicle, I don't remember.

We got into the compound which we were checking. I think it was the first time we'd been through that compound, and we drove up on some Iraqi civilians who were collecting various material, bricks, just small material like that. We drove up on them; they started to flee. The Marines that were in the back of the HMMWV's got out of the HMMWV's, started chasing them, and apprehended a few of them, teenagers, kids, one adult. They were detained and put in the back of the HMMWV's and taken to another location, separately. The HMMWV's were separated, and they went to different locations, and they met up again where the incident occurred at the foxholes. We caught four or five Iraqis.

I believe that the two kids were about the age of 9 to 12, and the teenagers were probably 15 to 17 years old. I believe that the older male was in his 30's. We had the older male in the back of our HMMWV. As far as I remember the other detainees were in the other HMMWV. After we put them in the HMMWV, they were taken throughout the compound in pursuit of other looters, and after that, they were taken to the foxholes. The foxholes from where we originally picked them were about a half a mile away. These foxholes were maybe about 3 feet deep and 2 or 3 feet wide, and they were right next to each other right beside the road next to a building. I never inquired as to why we pulled up by the foxholes.

When we pulled up, Sergeant Taylor was in my HMMWV. When everybody got out of the HMMWV's, we gathered around the foxholes. Corporal Burton and Sergeant Taylor were present. When I pulled up, the younger kids were being put in front of the foxholes. Everybody looked like they were joking around, and Corporal Burton

pulled his 9-millimeter out and put it to the back of one of the kids' heads and fired a round off and told the kids to get out of here.

I do not recall who actually put the detainees in front of the foxholes. The detainees were kneeling, facing away from Corporal Burton. The child that had the weapon put to the back of his head was about 9 to 12 years old. After the round was discharged, they were frightened and they ran off right away, as they were told to flee. While this incident was taking place, Sergeant Taylor was around the foxhole with everybody else. I was in the back of one of the HMMWV's about 10 or 15 feet away. When the round was discharged by Corporal Burton, the pistol was oriented to the right side of the Iraqi's head. The pistol was facing towards the air. The pistol was almost straight, parallel with the kid's shoulder, just off to the side. I never saw Sergeant Taylor try to stop Corporal Burton.

CROSS-EXAMINATION

I knew Sergeant Taylor from the time I served with him in Iraq and even from before that. I knew him before that because he was involved with me on a night where I assaulted an NCO. Sergeant Taylor is actually one of the Marines who stopped me from assaulting this NCO after I pulled a knife. That was when I first met him, but periodically throughout that day when I was first to the fleet I met him. This incident happened when I was new to the fleet.

The day that these two dereliction charges took place for Sergeant Taylor, we were patrolling this compound in the HMMWV's and the Iraqis were stealing some bricks and other things. I was not very clear on where the Iraqis were allowed to be. I was aware that there were a variety of ammunition supply points located on this military compound, and I was aware that these Iraqis were stealing various items from these ammunition supply points. I just wasn't aware of the specific details of where the Iraqis were allowed to be.

During my time in Iraq, I, myself, never apprehended any Iraqis. This was not the only time that my patrol detained Iraqis. There was more than one HMMWV involved in this patrol, and it was commanded by Corporal Burton. In our HMMWV we just had the one older Iraqi gentlemen. When I arrived at the foxholes on the side of the road, Corporal Burton's HMMWV was already there, and these individual Iraqis were already outside of the HMMWV's outside the foxholes. And then Corporal Burton fired the round from his 9-millimeter pistol, and at that point, the Iraqis were

The defense counsel offered Defense Exhibits A, B, and C for identification. The government objected to all exhibits being hearsay, with a specific objection to portions of Defense Exhibit A as being a euphemism from each of the authors of the exhibit to retain the accused. The military judge sustained the government's objection to Defense Exhibit A, and instructed the defense counsel to "black out" the objectionable portion. The military judge sustained the government's objection as to hearsay of the exhibits. The defense requested that the rules be relaxed as to hearsay of the documents. The military judge granted the defense's request, and overruled the government's objection. Defense Exhibits A, B, and C for identification were admitted into evidence as Defense Exhibits A, B, and C.

The members entered the courtroom.

The trial counsel presented an opening statement.

The defense counsel presented an opening statement.

The trial counsel presented the data as to pay, service, and restraint of the accused as shown on the charge sheet. There were no objections to the data.

The recording of the providence inquiry was played to the members.

The following witness for the prosecution was sworn and testified in substance as follows:

(b)(6)

Lance Corporal, 3d Battalion, 5th Marines,
81's Platoon

DIRECT EXAMINATION

I am currently a lance corporal in the United States Marine Corps. In June and July of 2003 I was assigned to 3d Battalion, 5th Marines, 81's Platoon, located at Ad Diwaniyah, Iraq. I know Sergeant Taylor because he was in my platoon. His billet was a section leader, platoon leader. During this time frame our unit was conducting patrols in Ad Diwaniyah, Iraq. Our mission in those patrols was to patrol the streets for security, and there were also perimeter missions, and making sure everything was running smoothly in the city, making sure it was safe.

I was a member of the patrol in which Sergeant Taylor was the patrol leader where a 9-millimeter weapon was discharged next to a detainee's head. This occurred after the war in the summer months, between May and July. The patrol began in the morning,

told to leave and they left. No physical harm was done to any of these Iraqis. Corporal Burton didn't actually shoot, pistol whip, or hit anybody. After Corporal Burton fired the round off and scared the Iraqis, they left and that was the end of my contact with that particular group of Iraqi looters.

When we came across these Iraqis that appeared to be steeling bricks, they started to flee. We had to drive after them and chase them down. I would agree that it was relatively common that when Iraqis saw a Marine Corps presence they would flee.

Following the incident, I received a detailed brief on how to deal with Iraqi detainees. But prior to that incident, we did have briefs on how to handle the Iraqi civilians; but as far as the importance of it and how we should be conducting ourselves on our patrols wasn't driven home until after the incident. The specific guidance came after the fact.

REDIRECT EXAMINATION

During our time in Iraq, we were given classes on rules of engagement. During these classes it was never passed to me that it was okay to line up an Iraqi child mock-execution style and discharge a round next to the Iraqi's head. Locking Iraq's in abandoned tanks was never passed in the ROE classes either.

EXAMINATION BY THE COURT

I do not know how long the Iraqi detainees were in T55 tank. The trial counsel published Prosecution Exhibit 1 to the members. The government had nothing further to present.

The following witnesses for the defense were sworn and testified in substance as follows:

(b)(6) Captain, Infantry Training Battalion, School of Infantry

DIRECT EXAMINATION

My name is (b)(6) I'm presently with Infantry Training Battalion at the School of Infantry. I'm presently a captain on active duty in the U.S. Marine Corps. I've been in the Marine Corps just under five years. My current billet is Company Commander for H and I Company. I have been the company commander for four months, and prior to that I was the XO for six months. I was a member of 3d Battalion, 5th Marines from November of 2000 to June of 2003. While at 3/5, I was the Second Platoon Commander, Weapons Platoon Commander, and then the XO.

Sergeant Taylor was my FO during CAX of 2001, my 81's FO for the deployment, from January to July of 2002; and then again he

came back to the company and was the company FO from December to April or May of 2003 during OIF. He was the 81's FO for Kilo Company. He was 81's FO, and then there was a three-man artillery FO team, but only one of them is actually the forward observer; the other two are radio operators.

During the work-ups for OIF, I saw Sergeant Taylor on a daily basis, and then during the war, I saw him on daily basis. During that time period, I did not have the opportunity to see Sergeant Taylor perform his duties as the FO. I did observe him during our deployment to Okinawa. I was able to observe the results of his work as the FO during Operation Iraqi Freedom. While he was attached to Kilo Company, his entire role in life was to make sure that we were in direct contact with the 81's platoon and to process any sort of fires on any enemy that is designated for him to fire on. The FO is the indirect fire support. It's what allows you to maneuver against the enemy. It's kind of our bread and butter until the infantry gets right up on the bad guys.

During the time that Sergeant Taylor was the FO, I was the executive officer. I do recall during the combat portion of Operation Iraqi Freedom using information given by Sergeant Taylor as the FO. He was talking straight to the 81's guys; he put fire on the bad guys. The first day in the Ramala oil fields right outside Ad Diwaniyah, there were at least three or four times, specific fights, not fire missions, fights. I was able to observe the results of his calls for fire. He did hit the target.

I can rate his skills as infantry company FO based on the fact that we went through three FO's before we settled on Sergeant Taylor. He was the most proficient of the three. As an XO for an infantry company I need an FO to be able to hit the target. Based off of him hitting the target, he hit the target quickly. Mission accomplishment. His role during Operation Iraqi Freedom ended around 25 April when we moved into Ad Diwaniyah. He went back to his 81's platoon because we were in Phase IV, peace keeping, rather than actual fighting. Based on my observation of Sergeant Taylor's performance in Operation Iraqi Freedom, I'd let him call for fire at the company level.

CROSS-EXAMINATION

During the time when Sergeant Taylor was my FO, he was not supervising any Marines. I am not familiar with what Sergeant Taylor pled guilty to today. I do not know that he pled guilty to being derelict in the performance of his duties as a patrol leader on two occasions.

EXAMINATION BY THE COURT

During the time period that I knew Sergeant Taylor, my opinion of his professionalism and conduct as an NCO would be rated at mediocre based on a number of things, just having seen him on a daily basis. As an FO, he's great. But as an NCO he definitely had some work while I observed him.

(b)(6) First Lieutenant, 3d Battalion,
5th Marines, 1st Marine Division

DIRECT EXAMINATION

My name is (b)(6) I am presently assigned to 3/5. I'm a first lieutenant on active duty with the United States Marine Corps. I've been with 3/5 for about three years. I've served with India Company, Weapons Company, and now H and S. My current billet is the OIC of the non-deployable platoon. They took all the non-deployable Marines and put them under my charge for guard and working parties. I am a member of this platoon because I EAS in June.

I first met Sergeant Taylor during the 31st MEU about two-and-a-half years ago. Since then, he was in my platoon during OIF, and as I was the XO of Weapons Company, he was in Weapons Company. Sergeant Taylor and myself both deployed with 3/5 to Operation Iraqi Freedom at the same time. He was a member of 81's Platoon. His billet was the forward observer attached to Kilo Company. We had four forward observers in my platoon of 81's. We had one detached to each company, and one was held in reserve to be attached to any unit that needed a forward observer.

I observed Sergeant Taylor as a forward observer through the radio or on occasional link-ups with my forward observers. During this time, my observation was daily through the radio; face to face, only about once a week or once every four or five days. This observation covers about 30 days during the war, and then after that I had daily contact with him when we were working more as a rifle platoon. I was able to observe all of my FOs' performance during the combat phase of Operation Iraqi Freedom. Out of the four FO's, he was the best. All his radio calls were prompt. He had targets assigned already. He basically did the best job and also helped streamline our calls for fire before the war. He was by far the most proficient FO that we had.

Sergeant Taylor had come from Division Schools before he came to my platoon, so he had a lot more experience with teaching forward observing. The book way of doing things isn't always the

fast way or the best way, and we had some competent forward observers to make the radio call succinct and make sure we had the right reports going back and forth.

After the combat phase of the war ended, my platoon's mission was first just a patrolling unit and stationary security, then we moved on to start a police force. And after that in moving compounds, we shifted to two different jobs, one was attaching out to different companies and running convoy security, and the secondary mission was starting a security force. My platoon started off in the battalion headquarters, which was the medical college in Ad Diwaniyah. Then when we were starting the police force, we moved to the old mayor's house. And finally in the third phase, during June and July, we moved to an old military compound with India Company.

I was the XO at that point, but the 81's platoon had a rotation of three different jobs. One was securing the compound for nine days. The second one was training, or flex, for three days. And the third one was actually conducting convoy security, riot control, helping out with starting the security company. We were probably the most engaged company with the locals, so for a little while we lived just as a company in the mayor's house.

We ran a jail. We also started the police. In starting the police force, we had way too many applicants, so we were constantly dealing with Iraqi citizens, and a lot of times the compound would be mobbed. We also provided security to a lot of different hospitals and banks. We had constant contact with the Iraqis and also violent contact with the Iraqis, not of the firing nature, but more of having to hear people. The effect this had on the Marines was definitely fairly demotivating. The populous of Ad Diwaniyah was very pro-American, but then a lot of times they didn't seem to be wanting to help themselves. So I think that's difficult to motivate the Marines to stay calm and do the mission that they were assigned to do.

At the military compound camp, high priority was given to keeping the Iraqis off of the compound. Even before we transitioned there and before India Company transitioned there, there was a bunch of sweeps done of the area to try to make it clear that this was a not-friendly zone for Iraqis. This was important because basically we wanted to keep all the Iraqis outside of small arms range. Right before we got there, one of the guard houses took some rounds. We later took some mortar fire in that position. There was also a lot of ammunition supply points embedded throughout there, including a tank compound which I think is where some of the incidents occurred, right across the

street where there was tank pieces and then tank rounds throughout the compound. When we would find the Iraqis on the compound, they would be doing anything from taking parts of buildings and wiring to digging into the ASP's and actually taking stuff. Other times they'd be trying to sell things to the Marines or lining up for questions, maybe trying to get the Americans to adjudicate some of their problems.

It was important to keep the Iraqis away from these ASP's because we had problems, Iraqis looting those areas and then selling the armament. Sometimes they would sell them for metal, but a lot of times they'd sell them for use in improvised explosive devices. And we had a pretty solid link intelligence-wise between the ASP stuff in Ad Diwaniyah going up to Sadr's forces up north.

During this time period we did not have any established SOP of how to deal with Iraqis that we caught stealing or looting or things of that nature. It was kind of on the judgment of the senior man. We had several different established procedures that we followed, but they changed as our ability to ~~persecute the~~ ^{prosecute the} Iraqis changed. Originally in the mayor's command, we were also the jail force, so we had a jail there. We could immediately bring the Iraqis into our jail. When we moved and the MP's took over the jail, we lost a lot of ability to detain Iraqis. A lot of times they were let go because looting wasn't necessarily a jailable offense. So a lot of times, we would take them and have them work on the compound for a couple days and then release them.

One of the things that we would do to deter Iraqis from looting or stealing was burn donkey carts. We would also make them return the stuff they had taken and make them work to put it back up. We'd take them into custody and bring them back and make them do labor, put them in jail for a couple days. They would also sometimes run away and leave all of their things behind.

I would describe the state of leadership in our company and battalion as not good. We basically had a full turnover of pretty much all of the billets from platoon commander and platoon sergeant and up, all the way up to the battalion commander and XO, 3, 3A, several of the company commanders, first sergeants, and a lot of people were bumping up. I went from platoon commander to XO. I think I was the CO for a couple of days until we got another guy to become the CO. Basically, all the leadership shifted in a very short time frame, probably about two or three weeks. This was caused by Marines receiving orders and Marines wanting to go home. We also lost our stop-loss Marines which were basically the NCO's. Our company was heavily effected by this

turnover because one of the platoon commanders left, one of the platoon sergeants left, the first sergeant left, the CO left, and then the next CO left, and basically the XO became the CO for about two weeks before he left. This turnover effected our ability to execute SOP's with regard to the Iraqis during this time period because the unit lost a lot of direction for that month period. Colonel (b)(6) came in and did a very good job of executing a new direction for the battalion to go in.

I did have the opportunity to observe Sergeant Taylor during this time period. When I was his platoon commander during SASO, he was one of the squad leaders, and he was in charge of securing our compound when we were over at the mayor's house, and I believe he also wrote to augment the CAT section in helping with the police, police and Marines walking together going through the streets training the police force. And then as we moved to the new compound, I became the XO he was a squad leader for the security of the compound, and then he'd also be a squad leader when they went on convoys, or taking two vehicles and going up and grabbing the fuel trucks, or escorting the Spanish up from Kuwait, or attaching to another company and going out to the outlying areas as gun truck security, any number of missions. I was able to form an opinion of his performance as a squad leader during this time period.

When we were at the mayor's house the security of the compound was really good. It was tough to motivate a lot of the Marines specifically when we still had the stop-loss Marines with us. It was difficult to get everybody on the same page. A lot of people were thinking about different things. He did an excellent job. I did not have the ability to see him too much as we moved over to the other compound. I was off the camp on a daily basis on other missions, but I think things were going very well.

I am aware of the two dereliction of duty charges that Sergeant Taylor has pled guilty to here today. Sergeant Taylor is currently a part of the Scout Sniper Platoon, sir. I am aware how Marines are selected to become part of sniper platoon. I do know that these Marines to be snipers they need to be trustworthy individuals, and traditionally if they have an NJP, they need to be well qualified with other statements from the command. And the skills they are looking for are basically independent operators, people that can be trusted.

CROSS-EXAMINATION

I did say during my direct examination that some Iraqis would be taking parts of buildings. By that, I mean any part of a

building could be used to put up another building. Specifically on that camp were wiring, bricks, aluminum ceilings, anything made out of metal or wood, any part of a building. The mayor's house that we took over was basically gutted. Iraqis had taken window panes, tiles, wiring. Unless it was "I" beams, it was pretty much cleared off. Some Iraqis were looting by taking bricks from the compound. Sometimes when they were caught, we would have them return the things that they were taking. That was one of the ways that we were enforcing punishment. If they were taking the things that they were stealing on a donkey cart, we would take the cart and occasionally burn the cart. We'd let the donkey go because normally the Iraqi was going with us.

When we first got there, there was quite a few Iraqis there. The number went down, but it wasn't very effective because even when we covered the ASP's up with dirt and threw wire around them and continued patrolling, they were still getting occasionally looted. Donkey carts were not a rare commodity in Iraqi. It was difficult for a poor Iraqi family to get their hands on, so our thought was if you give them the inability to carry, then probably those guys were not going to come back.

It wasn't clearly defined how to handle these looters. I did not hold any classes on what we could do to deter the Iraqis from stealing things. Before we left, we had gone over the rules of engagement. We knew the ROE's before we went there. I did not give my platoon any instructions regarding detainees who were caught looting. If we saw things get out of hand, we'd take care of it. That's basically what we did. There was no set, this is right, this is wrong. It escalated as the Iraqis escalated, and we tried to keep it at a level that was within sound judgment. It was sound judgment for the patrol leaders to exercise that judgment. I do not think that it was sound judgment for a patrol leader to allow his Marines to set up Iraqis who were caught taking things mock execution style and perform mock executions on Iraqis or locking Iraqis in a T55 tank.

I was over in Iraq for seven months. The temperatures during this time period during the day were high. It was hot enough that sometimes my eyes felt dry and burning. I do not know the exact temperature. It got a little cooler at night, but it was still hot. I do think it's hot inside an old abandoned T55 tank. I have never been in a T55 tank for an extended period of time. I believe the T55 tanks are pretty small.

Part of our mission over there was to win the hearts and minds of the people, but at the same time maintaining order.

Sergeant Taylor's performance as a squad leader was excellent. My observations were limited. As his platoon commander, I was observing him daily. When I moved up to the XO, I never actually got to observe him in his job, but I was able to find out the results of his job. When I was a platoon commander and he was a squad leader, I observed him daily for about two or three months. The months I observed him were April, May, and June. June is when I became the XO. I observed him as a squad leader, not as a forward observer for Kilo company. Our forward observers were brought back into our platoon after the combat operations. That was in April. Once the war ended we were at the medical college, and we took them back. That was when we stopped in Ad Diwaniyah, and I believe that was April. I became the XO in June.

My opinion of him doing an excellent job as a squad leader does not change even knowing that he's pled guilty to dereliction of duty because when he was my squad leader that was outside the realm of these requirements. I did go out on patrols with Sergeant Taylor when I was the platoon commander. I would imagine that I did go out on patrols with him when I was the platoon commander, because we had a period where we were doing probably four or five patrols a day, and I would try to go on two of them at least. So I'm sure I did, but my memory of his specific patrols is pretty much zero.

I believe that my other squad leaders burned donkey carts, but they did not perform any mock executions. I do know that there is a difference between the two.

The court-martial recessed at 1503, 29 March 2004.

The court-martial was called to order at 1527, 29 March 2004.

All parties present when the Court recessed were again present. The members entered the courtroom.

(b)(6) Captain, Recruiting Station Richmond, Virginia
(telephonically)

DIRECT EXAMINATION

My name is (b)(6) I'm the executive officer of Recruiting Station, Richmond. I am a captain on active duty in the United States Marine Corps. I've been on active duty for four years and five months. I reported in to Recruiting Station, Richmond, 1 August 2003. My previous unit was Weapons Company, 3d Battalion, 5th Marines. I served with Weapons, 3/5, from

October 2001 to June 2003; and I was with 3/5 from January 2001 to June 2003. When I was assigned to 3/5, I was Kilo Company's, 3rd Platoon Commander when I first checked in. I held that billet for about eight months, and then I moved over to Weapons Company. I served as the CAT platoon commander for Weapons Company approximately eight months, then I moved up as the Executive Officer for Weapons Company, and finished off my tour as a company commander for a little bit over a month.

I did deploy in support of Operation Iraqi Freedom with 3/5 with Weapons Company. I do know Sergeant Taylor. I know him in several capacities. While I was a platoon commander in Kilo Company, he was a forward observer for our company; and while I did not work with him directly, I did work with him via radio. Once I moved over to Weapons Company, periodically he was assigned to go out with me as a forward observer in CAT platoon; and once I moved up as executive officer, he was one of three forward observers that we had in our company. As the executive officer, I was the assistant fire support coordinator, so it was my responsibility to ensure that the forward observers, the 81 forward observers, were trained and properly coordinated to conduct fire support coordination within the battalion. And then I knew him as his company commander for a little bit over a month, right before I left Iraq.

I am aware of the dereliction of duty charges to which Sergeant Taylor had pleaded guilty here today, but I don't know a lot of details or specifics. I served with Sergeant Taylor at 3/5, working with him on a weekly basis, from January of 2001 to June of 2003. As far as working with him on a daily basis that would be July of 2002 until approximately March or April 2003. And that would have been the time period that I served as the executive officer and the assistant fire support coordinator.

In addition to serving with Sergeant Taylor during Operation Iraqi Freedom, we did a UDP with the 31st MEU from January of 2002 to July of 2002, and that was to Okinawa and several other countries on the Pacific rim. During the UDP, I was with CAT platoon. I served primarily as a react force conducting screening missions, support for other companies with heavy guns, and was involved heavily with noncombatant evacuation operations. I did observe Sergeant Taylor during those times. He would go out with me on occasion as forward observer, but my interaction with him was much less during that time.

I have had the opportunity to observe Sergeant Taylor's performance in both standard field training exercises as well as in a combat environment. I have been able to form an opinion

about Sergeant Taylor's tactical and technical proficiency as a Marine. Being one of our three forward observers, he was the subject matter expert in his MOS. He was very tactically proficient, and to be an FO you have to be tactically proficient because you're assigned to a company and you are the subject matter expert for 81's. He was one of our top five NCO's. You have two sections of 81's who have very competent NCO's and staff NCO's who lead those sections. And then generally your top three sergeants are sent out to be the forward observers. He was very proficient. I would describe his reputation within our company as a noncommissioned officer as very good; he was professional, mature. He was an independent operator. He was one of our go-to NCO's. In the absence of orders, he was one of the NCO's that you could trust who would step up and take charge. He was a self-starter, very motivated, very professional.

A weapons company generally has two or three platoons. For Iraqi Freedom, we had three platoons. We had an 81's platoon with two sections, and then we had a CAT platoon which had javelins. The CAT platoon was primarily anti-armor and heavy machine guns. So as a whole, our company was in a support mission. CAT platoon conducted screening operations, as well as direct fire support with the heavy machine guns, and anti-armor support with the machine guns and the javelins. 81's platoon provided indirect fire support for the battalion commander within his battalion. Sergeant Taylor was a member of the 81's platoon and acted as a forward observer. I was able to observe the results of his performance as a forward observer during Operation Iraqi Freedom. I was the executive officer for the company, so I was the assistant fire support coordinator. And as the assistant fire support coordinator, I coordinate the combined arms of the battalion. Sergeant Taylor was one of those forward observers with the company who called in combined arms that would be approved by me to be fired. I found him to be very tactically proficient. I can't ever remember denying a fire mission because he was unaware of the battlefield situation or because he had messed something up.

The mission for our company after the combat phase of Operation Iraqi Freedom became very broad. You name it, we did it. Following combat operations, we were sent north to the city of Samarra for a brief time, and then we moved back south and took up a position in Ad Diwaniyah. Ad Diwaniyah is a city of about a half a million people. And our battalion was assigned that city to basically conduct humanitarian operations and get the city back up and running. At first Weapons Company was assigned a sector, and then we were assigned with primarily restoring and maintaining security inside that city of 500 hundred thousand people. At the

time that we were assigned that mission, very few people in the city had utilities, water, electricity, and those kinds of things, and there was also no police force. An additional responsibility that we had was to train and establish, pay for, and arm an Iraqi citizen police force for that city. We were also doing urban patrolling, both foot and in vehicles, long range and short range. We were conducting blocking positions, house searches, detective work for reported crimes. You name it, we did it.

I wouldn't describe the level of stability in that area as stable, but we had it better than some cities. Based on the reports we heard coming out of Baghdad, we had it pretty easy. The people of the city liked us as Marines. They weren't that hostile. But just like any big city of half a million people, you had criminals. We spent about 90 percent of our time dealing with them trying to cut down on the crime and setting up the police force. The types of crimes that we were seeing were murder, rape, breaking and entering. But what we saw more than anything was looting. A lot of the schools were out at this time so the teenagers, or younger men, really didn't have anything to do during the day and night hours, so what you had was a lot of looters, a lot of riots in the city, none directed at Americans, but just riots in the situation in general, the fact that they still didn't have water, didn't have electricity. So those types of things, but a little bit of everything.

Our Marines were allowed to stop looters if they came across them during a patrol. The largest number of criminals that we arrested and stopped and placed into custody were looters. And they were everywhere. They would literally tear a building apart if you let them within a space of a few days. They would take anything from tin to tiles out of the floors, tops out of the walls, and they were all through the city. A lot of times we would get reports of looters or we would be on patrol, and we'd see these looters. We'd see people leaving houses with wheel barrels full of those types of items, and we'd place them in custody.

When we first moved in to Ad Diwaniyah, my company manned up the only jail at the time in the city. As we would arrest these looters, the Marines and the Army that were operating in the city would bring the looters to our company, and we were staying in the compound that had formerly belonged to the mayor of Ad Diwaniyah. We held those prisoners for approximately eight to ten days until we hired former Iraqi police officers as interrogators. Those interrogators came in, questioned the individuals, and got the specifics of what these individuals were doing and why they were doing it. If they were a known criminal element in that city,

they were held in a larger facility that we had set up by that time in the north part of the city. If they were a simple looter, they were warned to stop looting and released. But it depended on the level of severity of what these looters were actually doing. After only a few weeks, that was a matter that was turned over to the Iraqi police force and their interrogators and detectives.

I did have opportunities to observe Sergeant Taylor handle these detainees that were apprehended by the Marines. We probably processed five or six hundred detainees. I probably saw every Marine in the company handling them. I specifically remember Sergeant Taylor handling a lot of them, as the 81's platoon acted as our jail force within that compound, so they handled the prisoners that we had within the compound. They would also do local security patrols outside of the compound. So I've observed. I can remember some specific instances when he handled EPW's. His handling of the EPW's was acceptable. I don't remember him doing anything that any of the other Marines didn't do. Everything was in accordance with the Geneva Convention, just like we trained them to do. Firm but fair. There was no abuse either psychological or physical that I can recall.

I also remember a lot of the Marines would give them food and water and make sure they had adequate time to go to the restroom. Overall my company handled the looters very well. It was uncertain. You would take these individuals captive and really not be one-hundred percent sure how bad the crime was that they committed. Were they just really displaced by the war and trying to get some tile to retiling their house from a destroyed building, or were they malicious in their intent to steal from other people? I think he as well as the other Marines really treated all the prisoners that came through there humanely.

As far as deterrence, all we could really do was place those that we saw looting under arrest and attempt to turn them over to the new Iraqi police force. But the police force was established and disbanded, at last count, three times because they were unstable and unprofessional. But as far as deterrence, we had taken captive those who were committing these crimes, and holding onto them to keep them from doing it. There were several public relations events that we held where we drove a HMMWV mounted with speakers throughout the city and told people to desist from looting. We handed out some leaflets at one point. But as far as any command condoned vigilantism against looters, there was none.

It was common to have the same Iraqis arrested over and over again for looting. We started getting large numbers of looters. And some of those, if they were not suspected of a serious crime,

were released. If we caught them a second time and recognized them, we'd generally try to hold onto them. And by that time of being in the city for three or four weeks, we had started developing some very crude and rudimentary records of captives. But you'd see the same guys come through there sometimes two or three times. It was a pretty disheartening situation. It was tough to keep up morale when it seems like you're not doing any good. It's like holding back the flood. Every time you stick your finger in a dam, another place breaks loose and water starts flowing out. Especially when the first time we set up the police force and it was disbanded, it was very disheartening. And I think some of the Marines took it that we failed. But as Marines, we adapt and overcome, and we drove on and continued with our mission.

Based on my observations of Sergeant Taylor during OIF, I would serve with him again in combat if given the opportunity.

CROSS-EXAMINATION

As a forward observer, Sergeant Taylor was not supervising Marines. He was a forward observer for most of the war up until the combat phase ended around May of 2003. At that point he went back to Weapons Company, and he became a squad leader in the 81's platoon and got a squad of Marines. I left 2 June of 2003. My observation of Sergeant Taylor supervising Marines consisted of a little over a month. As a forward observer, Sergeant Taylor did not officially supervise other Marines, but he did act like any other NCO in the Marine Corps.

The trial counsel questioned the witness regarding Marines being trained in accordance with the Geneva Convention. The defense objected to this question on the grounds of relevance. The military judge overruled the objection.

Sergeant Taylor handled the detainees in accordance with the rules of the Geneva Convention. The Marines received very specific training on the rules of engagement during the combat phase. We received the rules of engagement from the Marine Corps, and that's how the Marines were trained to handle EPW's. Following the combat phase, I never specifically saw a new written set of rules of engagement. But there were, by word of mouth through the battalion commander and company commanders, new modified rules of engagement. There was a reduce in threat, so the Marines were pulled in, and we went over the rules of engagement again with the modifications. So I guess I kind of threw the Geneva Convention in there myself. But it was really Marine Corps rules and regulations for handling EPW's. Before any

specific instructions were given after the combat phase, the Marines were still operating under the rules of engagement from the combat phase of the war. We received clarification because I remember it being a definite issue, and we were told to continue with the rules of engagement that were in place until we received further word. We were told that while we were on our way up to Samarra after Baghdad had fallen and combat operations were over. I personally did not conduct training on rules of engagement for my Marines, each individual platoon commander did. The commanding officer from the company gave the brief to the platoon commanders as well as myself.

Rules of engagement did not include the use of mock executions on Iraqi EPW's or detainees in order to discourage the them from committing criminal offenses. Locking EPW's or detainees into abandoned tanks would only have been okay if it were done for the safety of Marines during combat operations, but not during post-combat operations.

From what I saw, Sergeant Taylor treated prisoners humanely. I do not think it is humane or authorized under the rules of engagement for Sergeant Taylor to allow one of his corporals to execute a mock execution on an Iraqi child. That is not taught to the Marines. The command did not condone vigilantism. And by those types of things, I meant catching a looter and beating them in public or firing a warning shot in the direction of looters in order to chase them off for obvious reasons. Those types of things were not condoned. I would say that taking an Iraqi child and putting him in front of a fighting hole, putting him on his knees, and then having an NCO engage in a mock execution as being vigilantism if the intent was to reduce the number of looters or to reduce that crime.

(b)(6) Corporal, 3d Battalion, 5th Marines, Weapons Company

DIRECT EXAMINATION

My name is (b)(6) My unit is 3d Battalion, 5th Marines, Weapons Company. I am a corporal on active duty in the United States Marine Corps.

I was in Ad Diwaniyah, Iraq, during the June/July 2003 timeframe. I was assigned to 3/5. I was present in Ad Diwaniyah during the time period during the patrol where some Iraqis were locked into a T55 tank. Also present were Corporal Burton, Sergeant Taylor, and some other Marines. There were approximately ten Marines on that patrol. I am aware that Sergeant Taylor has

pled guilty to dereliction of duty for placing Iraqis in the tank.

We detained the Iraqis, stopped at a tank, and there were some Iraqis placed in the tank. The hatches were left unlocked and open. I wasn't actually on top of the tank, but I could tell because when the tank has its hatches open, it's visible. At that time, they were put inside there. I was eating chow. Corporal Burton grabbed a bottle of water, and he put it in there with the Iraqis. Then we left. When I left, the doors on the tank were open and unlocked. About an hour later, we checked to see if the Iraqis were still in the tank. They were gone.

CROSS-EXAMINATION

It was sometime mid-morning when we put the detainees into the tank. It wasn't extremely hot, but it was hot. It was probably about 90 degrees. These were two Iraqi detainees we picked up on our patrol. We placed two of them inside the T55 tank. I'm not sure whose idea it was to put them in the tank. I didn't actually place them in the tank, but I was present. Sergeant Taylor was also present. When they were placed in the tank, the hatches were not closed. We then threw a bottle of water in there, and then we left.

I was at the tank eating chow for about five to ten minutes. After the detainees were placed in the tank, we rested for about five or ten minutes, and then we left. The purpose for placing them inside the tank was just to show them that we were tired of them because there's tank rounds over there, all kinds of rounds, and we didn't want them over there because they were stealing metal pieces, pipes, plastic or whatever. One day they could be stealing parts of a roof, and then the next day they would be stealing some kind of rounds. We were trying to get the point across that they shouldn't be over there. We had already taken plenty of these guys to our jail. And these two that we actually caught, we caught three times prior to that. They had already been caught before, and we made them work and dig holes and such, and they hadn't learned from what we had done before.

Since that wasn't working, we tried to show them that we are tired of them doing that. We were hoping to deter future conduct by the detainees. We thought by placing them in the tank, leaving the tank open with water, we thought that would deter future conduct by the detainees. It's my testimony that we never closed the hatches. They were in the tank, so they didn't know if we were there or not. And when we left, they probably weren't sure if we left or not, so they would stay in there scared that we were still outside. And that was the whole point of it, them just

knowing that we're not going to hit them or beat them up, but we were going to be more stern than just make them dig holes or fill up sandbags to make our positions better.

We were pretty aggressive with them because we put them in the tank and they did not poke their heads out because they were scared. We did not treat them badly before we put them in the tank. Even though we didn't treat them badly before we put them in the tank, they were still scared of us. They are always afraid of us. As soon as they see us, they run. It's not because we hurt them, it's just that they run any time they see the Marines or Army or Navy.

The tank was gutted. It was clear. This tank was located by the tank factory. It was inside the compound that we were guarding. There was a fence line, and it was approximately 30-meters outside the fence line. After we left, the Iraqis could have just wandered inside the fence line. We sent patrols out to deter this.

Even though the tank doors were open and they were only 30-meters outside, they could have gone back in once they left the tanks and continued to do what they were doing, we felt the need to go back an hour later to check on them to make sure they got out of the tank. Even though the doors were open, we weren't sure that they would leave.

The defense published Defense Exhibits A, B, and C to the members.

UNSWORN STATEMENT

My name is Alan Ryan Taylor. I'm (b)(6)

(b)(6) Most of my life I attended school there until I was in 12th grade. I played hockey all through high school. I lettered in hockey. I love being outdoors, camping, fishing, hunting, things like that, going to the ocean.

I joined the Marine Corps March 15, 1999. I joined for a lot of different reasons. Something I wanted to do ever since I was a little kid was join some type of military service. I learned when I was older that the Marine Corps was one of the toughest branches, so I came into the Marine Corps. I asked the recruiter what the hardest job was, and he told me infantry. So I came in the Marine Corps as 03XX.

I just recently moved over to the Scout Sniper Platoon. My short-term goal is to learn as much about that as I can before we deploy back to Iraq. Hopefully I'll get the chance to go through scout sniper school and become an 8541.

Me and my (b)(6) together. Some of the long-term goals I have are that I'd like to go to Wyoming Technical Institute, become ASC certified, and hopefully open my own shop someday for restoration of automobiles.

I'm sorry for the way things turned out in Iraq. Nobody plans on going over and doing something like that. It's just something that happened. I'm sure everybody makes mistakes, and they always wish they could take them back. And I'm sorry for what happened, and I hope that the Iraqis who were mistreated didn't suffer too badly.

There is no excuse for the two dereliction of duty charges that I pled guilty to here today. The Iraqi that had the weapon fired off by his head by Corporal Burton was approximately 20 to 25 years old. I had the child with myself. The child was about 15. The age of the Iraqis does not give me an excuse for not telling Corporal Burton to knock it off. In the future to make sure these types of things don't happen I will keep tighter control on my Marines, make sure I stay one jump ahead of them, and just keep tighter control. I guarantee you once we go back to Iraq and deploy in June or August, if I am in a leadership billet, nothing of this sort will ever happen again. I will keep the control that I need to keep on my Marines.

Like I said, I'd like to go through the scout sniper school. It's one of the hardest schools I know of in the Marine Corps. I want to become an 8541 and hopefully pass that, as well as my forward observer skills, onto future generations of Marines.

The defense had nothing further to present and rested.

The government had nothing to present in rebuttal.

The government presented argument on sentencing.

The defense presented argument on sentencing.

The military judge instructed the members on the maximum punishment which could be adjudged for the offenses to which the accused pled guilty. The military judge also instructed the members concerning procedures for voting, the responsibilities of the members, and the matters the members should consider in

accordance with R.C.M. 1005(e). The members were given Appellate Exhibit X, the sentence worksheet. There were no objections to the instructions or requests for additional instructions.

The court-martial recessed at 1701, 29 March 2004.

The court-martial recessed at 1708, 29 March 2004.

All parties present when the Court recessed were again present including the members.

The court-martial closed for deliberations on sentencing at 1709 on 29 March 2004.

The court-martial opened at 1750 on 29 March 2004.

All parties present when the Court closed for deliberations on sentence were again present.

The president submitted two questions to the military judge in writing, and they were marked as Appellate Exhibits XIV and XV.

The court-martial closed at 1759, 29 March 2004.

The court-martial opened at 1814, 29 March 2004.

All parties present when the Court closed for deliberations were again present. The members entered the courtroom.

The President announced the following sentence:

To be reduced to the pay grade of E-3 and
to perform hard labor without confinement
for 30 days.

The members were excused and withdrew from the courtroom.

The military judge ascertained that the accused had read and discussed Appellate Exhibit XIII, his appellate and post-trial rights, with his defense counsel. The military judge further ascertained that the accused understood his appellate rights and did not have any questions of the military judge.

The court-martial adjourned at 1821 on 29 March 2004.

AUTHENTICATION OF THE RECORD OF TRIAL

in the case of

Sergeant Alan R. Taylor (b)(6) U.S. Marine Corps,
3d Battalion, 5th Marines, 1st Marine Division (REIN), Camp
Pendleton, California 92055.

d. m. j.

D. M. JONES
Major, U.S. Marine Corps
Military Judge

040618

I have examined the record of trial in the foregoing case.

[Signature]
R. M. MANNING
Captain, U.S. Marine Corps
Trial Counsel

040526

Date: 20040327

To: The Members

From: [REDACTED] 3rd BN 5th Marines

I have been in 3/5 for almost 5 years. Sgt Taylor has been in the same battalion for almost 4. During this period I served in 3 different companies. He has supported the line company which I was in, as the 81mm mortar forward observer. As I moved to the scout/sniper platoon, he was a critical reference for all of our various supporting arms knowledge. While in Kuwait, Sgt Taylor seemed to be the only reliable asset the battalion had, that knew all about the VIPER laser range finder.

When the war kicked off he, became the F.O. for another line company, and I wouldn't work with him again until May 2003, when I was needed in as the 81mm mortar platoon sergeant. Here, we were united in the same platoon. The battalion began SASO and Sgt Taylor was one of my squad leaders. Our day to day operations demanded huge responsibility and strong small unit leadership. At no time would I have considered replacing or relieving Sgt Taylor for a lack of trust or reliability. And if it came to it, I would sincerely want Sgt Taylor to work for me again.

Upon returning to CONUS, Sgt Taylor was designated as the Embark NCO and I was placed as the Operations Chief for Weapons Company. I was able to see Sgt Taylor do some great work for our unit; since in his position works directly for me. He needed no supervision and could be trusted with nearly 100 keys that would access all the company property. Also during this period I was TAD for 52 days and Sgt Taylor was tasked to move the entire company into a different set of BEQs. This is the responsibility of a company gunny, but I visited the company during my TAD and found it was completed and went without a flaw.

Even though I know of Sgt Taylor only on a professional level, I believe he is as morally sound as the next man. He is a proven good Marine who has achieved the rank of sergeant in less than 4 years. He sets the standards high for the Marines that serve below him. He was approved reenlistment by Headquarters Marine Corps shortly before OIF. I have also met his (b)(6) at the Marine Corps ball and know they are attempting to make a family.

I know if Sgt Taylor is allowed to continue his tenure in the Marine Corps, he will contribute a high level expertise to whoever he meets and will be a value to any unit. I am confident that he will work hard and will grow into a productive Staff NCO one day.

(b)(6)



UNITED STATES MARINE CORPS
3D BATTALION, 5TH MARINES
BOX 555483
CAMP PENDLETON, CALIFORNIA 92055-5483

1500
K CO
27 Mar 04

From: [REDACTED]
To: THE MEMBERS

(b)(6)

Subj: LETTER ON BEHALF OF SGT.TAYLOR

1. I know Sgt.Taylor from the US Marine Corps
2. I have known him for 2 years and 10 months
3. We served together in OIF, during combat operations from March To April 2003. He was the Forward Observer for Kilo Co. fist team.
4. Yes I would serve in combat with him again if given the choice.
5. I have observed his performance at work outside OIF. We did a UDP to Okinawa together in 2002. We were both NCOs working together on a daily basis, from field ops to training Philippine Marines, for the past several years.
6. His performance at work is excellent as he is very knowledgeable, hard working, and proficient. He is the senior FO in the 3/5, teaching many Marines this valuable skill over the years. He also has served as an instructor teaching infantry skills. Sgt.Taylor is very versatile and can operate in any billet within the infantry community as he has shown by his past accomplishments, from BN FO to 81mm Mortar Section Leader.
7. I have been out with him on numerous occasions on liberty. He conducts himself like a senior Marine, making sound decisions, and looking after fellow Marines. We went out on liberty together in Okinawa several times, always looking after fellow Marines and helping them do the right thing.
8. I think Sgt.Taylor is an outstanding Marine, He is what a Staff NCO is looking for in a good Sgt. He possesses all the skills and traits essential for a leader of today's Marine Corps. I feel that he is very beneficial the Marine Corps, just recently he has shown an interest in going to be a Mountain Warfare Instructor at Bridgeport CA. His dedication speaks for itself with numerous deployments away from his (b)(6) to include a combat deployment in OIF.
9. For the past almost 3 years I have been with 3/5 Sgt.Taylor has been a key player in the mission accomplishment of Kilo Co., 3rdBN 5thMAR, and RCT 5 in combat ops. He called for numerous fire missions on enemy positions, buildings and in the open, saving numerous US forces lives. As the Kilo Co. mortar section leader I received many call for fire missions from Sgt.Taylor. Together with our Marines we destroyed enemy personal, buildings, and ammo storage sites, saving lives by doing our job. He was a natural leader in combat, always staying calm and collect focusing his attention on the mission at hand and what was ahead. He is a dedicated hard working leader of Marines.
10. I thing he is defiantly a good guy, and a family man as well. I would like to continue to serve with him today and in the future.
11. When talking to other Marines in my unit they have positive things to say about Sgt.Taylor as expected, and consider him a good Marine.
12. His reputation in the unit is as a strong senior NCO, with a lot of, skill, knowledge, experience, and who is very dependable.

13. Sgt. Taylor has rehabilitative potential, as he will do whatever it takes to help himself, correct any mistakes made, and to carry on with the next mission at hand. He is a professional Marine and determined to do the right thing all the time.
14. He is a true leader of Marines and I am proud to have served with Sgt. Taylor for the past several years, in actual combat, aboard ship, in foreign countries and to this current day. He is a model for fellow Sergeants to live up to and juniors to learn from, and seniors to be proud of. He will do well wherever the Corps sends him as expected upholding the highest standards and exercising good judgment as he is known to do in his past.

(b)(6)



UNITED STATES MARINE CORPS

3rd Battalion, 5th Marines
Camp Pendleton, California 92055-5483

IN REPLY REFER TO
5800
HHQ
26 Mar 04

From: Cpl (b)(6)
To: The Members

/ 0311 / USMC

Subj: STATEMENT OF CHARACTER CASE OF SGT ALAN R. TAYLOR (b)(6) / 0341 /
USMC

1. Since having been a member of the Battalion (May 2000) I have known Sgt Taylor from being one of the mortar men in Weapons Company 3/5 and later as a Scout Sniper. I briefly was engaged in SASO operations during OIF with Sgt Taylor while the battalion was in charge of the security of Ad Diwanniyah, Iraq. As a fellow Non-Commissioned Officer in the Marine Corps, I would undoubtedly serve with him again in Combat operations, Especially due to his current involvement in the Scout Sniper platoon and my previous involvement (SASO/OIF April '03 - July '03) with Scout Sniper Platoon.

2. Since returning from OIF, Sgt Taylor has been a part of Scout Sniper Platoon and has, from the limited time I have seen him train, performed with motivation and intensity. I do not participate in social activities with him, but at work he displays himself as a consummate professional. As a team leader in the Scout Sniper Platoon, he is a necessity to the battalion in my opinion. I will continue to take pleasure to serve in the same company as Sgt Taylor. He has no "reputation" in 3rd Battalion 5th Marines other than current issues pending and as a fellow NCO I feel there is no need for any form of Rehabilitation.

3. Sgt Taylor is a strong NCO and should continue to remain an asset to the United States Marine Corps.

4. The point of contact for this Matter is Cpl (b)(6)

(b)(6)

DEFENSE EXHIBIT A

PAGE 4 OF 5

(b)(6)

From: (b)(6)
Sent: Sunday, March 28, 2004 5:28 PM
To: (b)(6)
Subject: SGT TAYLOR

ON BEHALF OF SGT TAYLOR
TO THE MEMBERS, FROM (b)(6) MPNS CO 81'S PLT
040327

I (b)(6) HAVE BEEN WITH SGT TAYLOR'S UNIT (3/5) SINCE MARCH OF 2001. HE WAS MY SECTION LEADER DURING (SASO) PHASE OF OIF. WE WORKED HAND IN HAND ON VARIOUS OCCASIONS, DOING PERIMETER CHECKS, AROUND CAMP GOT SOME (AD-WAYNIYAH IRAQ) AS MY SECTION LEADER. MY JOB WAS TO CARRY OUT THE ORDERS HE GAVE FROM HIGHER. IF THE CHANCE WAS GIVEN TO ME TO GO TO COMBAT WITH HIM I WOULD GO. NO QUESTIONS ASKED.

ONE SITUATION COMES TO MIND ABOUT SGT TAYLOR THAT MAKES ME WILLING TO GO TO COMBAT WITH HIM. MY SQUAD ALONG WITH THE REST OF HIS SECTION DID A RAID ON A LOCAL HAVEN FOR SUSPECTED AL BATH PARTY MEMBERS. WE BREACHED THE UPPER STORY VIA A LATTER ON THE BACK OF A HUMVEE GOT INTO THE HOUSE WHERE WE CLEARED THE FIRST APARTMENT, THEN ACROSS THE HALLWAY TO MEN CAME OUT, WITH SOMETHING IN HAND WHICH LOOKED LIKE A WAPON TO ME. I SHOUTED GUN AND PREPARED TO FIRE THEN SGT TAYLOR SHIELDED ME WITH HIS BODY. MYSELF AND SGT TAYLOR WERE STANDING BEHIND A LOCKED GATE THAT CONNECTED THE APARTMENTS SO WE COULD NOT RUSH FORWARD AND SECURE THE OTHER SIDE OF THE APARTMENT.

YOU ASK WOULD I SERVE WITH A MAN WHO IS WILLING TO SACRIFICE HIS LIFE FOR MINE. NO QUESTIONS ASKED YES!

TAYLOR IS THE GO TO GUY FOR THINGS, HE KNOWS PEOPLE IN DIFFERENT COMPANYS AND OTHER UNITS HE CAN GET THE TOOLS NEEDED TO MAKE IT HAPPEN NO MATTER WHAT. SGT TAYLOR'S PERFORMANCE IS TOP NOTCH.

TAYLOR IS THE BEST (FO) FORWARD OBSERVER, AND WAS DURING THE WAR HE CALLED IN SEVERAL DANGER CLOUSE MISSIONS WHICH DID NOT TOUCH BLUE FORCES, BUT DEVISTATED THE ENEMY. ALSO HE IS FUN ON LIBERTY. IN OKINAWA WE HAD A COUPLE OF BEERS AND JUST RELAXED TALKED ABOUT GETTING BACK TO THE STATES.

SGT TAYLOR IS A GOOD GUY. FARE, BUT FIRM IS EXACTLY THAT AND GOOD AT IT. IT WOULD BE A PLEASURE TO SERVE WITH HIM AGAIN. I LOOK FORWARD TO IT.

SGT TAYLOR IS LOOKED AT AS A HARD ASS. HE IS TUFF AS NAILS, BUT HE IS JUST THE ENFORCER, HE IS A SGT IN THE TOUGHEST BUNCH THE WORLD HAS EVER PRODUCED, SO I DONT EXPECT ANY LESS.

EVERYBODY KNOWS SGT TAYLOR! FROM THE COL. ALL THE WAY DOWN TO A THE BOOTEST PFC. HE IS JUST WHAT IVE STATED A ROUNDED WELL ROUNDED MARINE!

RELTABILITATIVE POTENTIAL? DEFINATLY

WITH PRIDE

(b)(6)

DEFENSE EXHIBIT A

PAGE

← OF 5

ARRAIGNMENT AND TRIAL SCHEDULE

U.S. v. Taylor

Arraigned: 13 Jan 2004

MJ: Maj Ware Rptr: _____

TC: Capt Manning DC: 1Lt Folk

Defense witness requests due: 13 Feb

Gov't response to witness requests due: 18 Feb

All motions due: 25 Feb
(NLT Tuesday of week before hearing)

Answers to motions due: 3 Mar

Members questionnaires due to defense: 3 Mar

Motions hearing/forum and pleas entered on record: 10 Mar

Notice of certain defenses due: 10 Mar
(e.g. innocent ingestion, alibi, etc.)

Proposed voir dire due: 19 March
(NLT noon, two days before trial)

Trial Date: 29-31 March

TIA warning given? (Yes/No)

Notes:

Charge I: Violation of the UCMJ Article 92

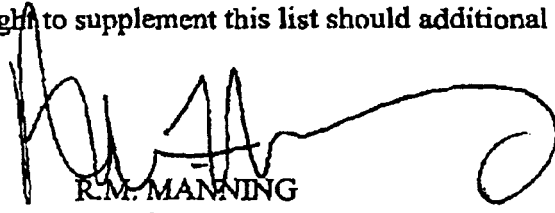
Specification 1: In that Sergeant Alan R. Taylor, U.S. Marine Corps, on active duty, who knew of his duties, did, at Ad Diwaniyah, Iraq, between on or about 1 June 2003 to on or about 6 July 2003, was derelict in the performance of those duties in that he willfully failed to stop Corporal Scott A. Burton, U.S. Marine Corps, Corporal (b)(6) U.S. Marine Corps, and Corporal (b)(6), U.S. Marine Corps from locking Iraqi detainees into an abandoned tank.

Specification 2: In that Sergeant Alan R. Taylor, U.S. Marine Corps, on active duty, who knew of his duties, did, at Ad Diwaniyah, Iraq, between on or about 1 June 2003 to on or about 6 July 2003, was derelict in the performance of those duties in that he willfully failed to stop Corporal Scott A. Burton from lining up Iraqi detainees in front of foxholes, placing his 9mm pistol into condition one behind them, and then firing a round next to one of the detainees heads.

SIERRA JUDICIAL CIRCUIT
UNITED STATES MARINE CORPS
SPECIAL COURT-MARTIAL

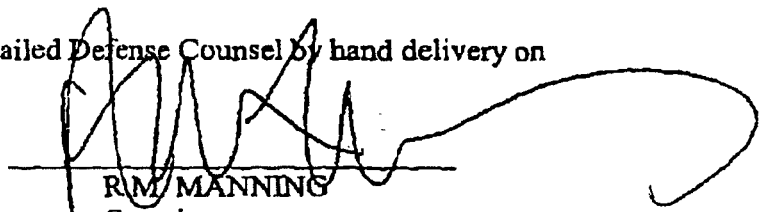
UNITED STATES)	
)	
)	GOVERNMENT'S WITNESS LIST
v.)	
)	
ALAN R. TAYLOR)	
(b)(6))	
SERGEANT)	
U.S. MARINE CORPS)	

1. The government may call the following witnesses to testify at pre-sentencing:
 - a. LCpl (b)(6) 1, 3d Bn, 5th Marine Regiment
2. The government requests the right to supplement this list should additional witnesses be discovered.


R.M. MANNING
Captain
United States Marine Corps Reserve
Trial Counsel

CERTIFICATE OF SERVICE

A true copy of this notice was served on Detailed Defense Counsel by hand delivery on 29 March 2004.


R.M. MANNING
Captain
United States Marine Corps Reserve
Trial Counsel

ORIGINAL

APPELLATE EXHIBIT IV

UNITED STATES MARINE CORPS
SPECIAL COURT MARTIAL
IN THE SIERRA JUDICIAL CIRCUIT

UNITED STATES)

v.)

ALAN R. TAYLOR)

(b)(6))

SERGEANT)

U.S. MARINE CORPS)

DEFENSE WITNESS LIST

SERGEANT ALAN R. TAYLOR, U.S. Marine Corps, by and through detailed defense counsel, Captain W. A. Folk, intend to call the following witnesses:

1. (b)(6)
2. Captain (b)(6) XO, ITB, School of Infantry
3. Captain (b)(6) , Recruiting Station Richmond, VA
4. First Lieutenant (b)(6) Third Battalion, Fifth Marine Regiment

Very respectfully,


W. A. FOLK

APPELLATE EXHIBIT II

**SIERRA JUDICIAL CIRCUIT
UNITED STATES MARINE CORPS
SPECIAL COURT-MARTIAL**

UNITED STATES)

v.)

TAYLOR, ALAN R.)

(b)(6))

SERGEANT)

U.S. MARINE CORPS)


**GOVERNMENT'S PROPOSED VOIR
DIRE**

1. Did all members deploy with 3rd Battalion, 5th Marine Regiment to Iraq in support of Operation Iraqi Freedom?
2. Of those members who deployed, how many of you had contact with Iraqi detainees?
3. Has any member ever personally or had another Marine detain an Iraqi citizen while serving in OIF?
4. Has every member been on a patrol before?
5. Has any member ever been the patrol leader for a patrol?
5. Has any member ever been on a patrol in Iraq? Specific member questions: When?
6. Has any member ever been the patrol leader for a patrol in Iraq? Specific member question: When?
7. Has any member spent time in Ad Diwaniyah, Iraq in June/July 2003 timeframe? Specific member questions: What were your duties? What type of contact did you have with the populace?
8. Would you all agree that a patrol leader is responsible for conduct of a patrol?
9. Would you all agree that the patrol leader is responsible for the welfare of the Marines on the patrol?
10. Would you all agree that the patrol leader is responsible for ensuring that his patrol accomplishes the mission of the patrol?
11. Would you all agree that part of the patrol leader's duties is to ensure that his Marines are following the rules of engagement and Law of War?
12. Would you further agree that a patrol leader has a duty to stop his Marines from

ORIGINAL

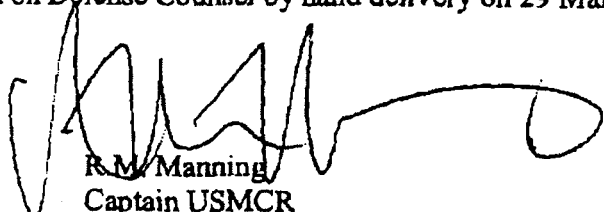
APPELLATE EXHIBIT VI

committing violations of the Law of War and rules of engagement?


R.M. Manning
Captain USMCR
Trial Counsel

29 March 04
DATE

A true copy of this motion was served on Defense Counsel by hand delivery on 29 March 2004.


R.M. Manning
Captain USMCR
Trial Counsel

**UNITED STATES MARINE CORPS
SPECIAL COURT MARTIAL
IN THE SIERRA JUDICIAL CIRCUIT**

UNITED STATES)

v.)

ALAN R. TAYLOR)

(b)(6))

SERGEANT)

U.S. MARINE CORPS)

DEFENSE PROPOSED VOIR DIRE

SERGEANT ALAN R. TAYLOR, U.S. Marine Corps, by and through detailed defense counsel, Captain W. A. Folk, respectfully request the following group voir dire questions:

1. Did any members participate in Operation Iraqi Freedom?
2. Did any members participate in SASO operations in June/July 2003?
3. Were any of those operations conducted in Ad Diwaniyah?
4. For those you conducting such operations, did you have problems with Iraqis stealing or looting?
5. Were SOPs established for how to deal with these Iraqi looters?
6. Did anyone see a marine do something to an Iraqi that you believed was inappropriate, how about criminal?
7. Does anyone know Sergeant Taylor personally?
8. Has anyone received a brief, or had a conversation, either formal or informal, about serving as a member in a court-martial?
9. Has anyone ever discussed military justice with their current battalion commander or anyone else in their chain of command?
10. Does anyone believe that the battalion commander, or anyone in your chain of command, is hoping for a particular sentence in this case?
11. Do you believe that a Bad Conduct Discharge should be automatically included in any sentence at a Special Court-Martial.
12. Would everyone agree that Marines who make mistakes, even mistakes that violate the

UCMJ, can continue to render good service to the Marine Corps?

13. Do you agree to consider the character of Sergeant Taylor's service to the Marine Corps, to include his service during Operation Iraqi Freedom, when considering an appropriate sentence in this case?

13. Does everyone understand that by pleading guilty to the offense of dereliction of duty that Sergeant Taylor has placed a federal conviction on his record?


14. Does anyone believe that they cannot be open-minded and fair in considering an appropriate sentence because of the nature of charges: dereliction of duty?

15. Can everyone consider the entire spectrum of punishments that are available in this case from no punishment beyond the conviction to the maximum punishment.

16. Have any of you seen a situation where a good marine makes a bad decision?

17. Can you all consider the full range of punishments – from no punishment to the maximum – when considering the appropriate sentence in this case?

Respectfully Submitted,



W. A. FOLK

APPELLATE EXHIBIT VII

PAGE 2 -- 2

UNITED STATES MARINE CORPS
IN THE SIERRA JUDICIAL CIRCUIT

UNITED STATES

v.

ALAN R. TAYLOR
(b)(6)
SERGEANT
U.S. MARINE CORPS

SPECIAL COURT-MARTIAL

PRETRIAL AGREEMENT

I, SERGEANT ALAN R. TAYLOR, U.S. Marine Corps, the accused in a Special Court-Martial, freely and voluntarily certify that:

1. For good consideration and after consultation with my defense counsel, Captain W. A. Folk, I agree to enter a plea of GUILTY to the charges and specifications as set forth in paragraph 10 below, provided that the sentence approved by the convening authority will not exceed the sentence agreed upon in the Sentence Limitation to this Agreement.

2. I am satisfied with my defense counsel in all respects.

3. I have been advised that this offer and Agreement cannot be used against me in the determination of my guilt on any matters arising from the charges and specifications against me in this court-martial.

4. I understand that for the purpose of this Agreement, the sentence is considered to be in these five parts: (1) punitive discharge; (2) period of confinement; (3) amount of forfeiture of pay and/or allowances; (4) reduction in rate or grade; and, (5) any other lawful punishment (such as hard labor without confinement, restriction, reprimand, or fine).

5. Should the court-martial adjudge a sentence which is less, or a part thereof which is less, than that set forth and approved in the Maximum Sentence Limitation to this Agreement, then the convening authority may only approve the lesser sentence.

6. My defense counsel has fully advised me of the meaning and effect of the following UCMJ provisions: Article 57, Effective dates of sentences; Article 58b, Automatic forfeitures; Article 58a, Automatic reduction; and, JAGMAN section 0152c, Automatic reduction of enlisted accused. I also understand that if the adjudged sentence is subject to any of these provisions, this Agreement will have no effect on the application of those provisions on the adjudged sentence, unless the effect is specifically indicated in the Sentence Limitation to this Agreement.

7. My defense counsel has fully advised me of the meaning and effect of my guilty plea, and its attendant effects and consequences, including the possibility that I may be processed for an administrative discharge even if part or all of the sentence, including a punitive discharge, is suspended or disapproved pursuant to this Agreement, and that, depending on the circumstances, such discharge may be characterized as other than honorable.

8. I understand that if my guilty plea does not remain in effect for any reason through the announcement of the sentence, then the convening authority may withdraw from this Agreement.

9. I understand that I may ask permission to withdraw my guilty plea at any time before sentence is announced, and that the military judge may permit me to do so.

10. I will plead as follows:

	<u>CHARGE</u>	<u>PLEA</u>
Charge I:	Violation of Article 92, UCMJ.	Guilty
Spec 1:	Derelict in the performance of duties from on or about 1 June to 6 July 2003 by not stopping Marines from locking Iraqi detainees into an abandoned tank.	Guilty
Spec 2:	Derelict in the performance of duties from on or about 1 June to 6 July 2003 by not stopping a Marine from spraying an Iraqi with a fire extinguisher	NOT Guilty ^{NOT PLEA} (C)
Spec 3:	Derelict in the performance of duties from on or about 1 June 2003 until 6 July 2003 by failing to stop a Marine from lining up Iraqi detainees and firing a pistol next to an Iraqi's head	Guilty
Charge II:	Violation of Article 93, UCMJ.	Not Guilty
Spec 1:	Maltreatment of Iraqi detainees by locking them into a tank	Not Guilty
Spec 2:	Maltreatment of an Iraqi detainee by spraying them with a fire extinguisher.	Not Guilty
Spec 3:	Maltreatment of an Iraqi detainee by having the Iraqi kneel in front of a fighting hole while a pistol was drawn and a round fired.	Not Guilty
Charge III:	Violation of Article 128, UCMJ.	Not Guilty
Spec 1:	Assault an Iraqi detainee by firing a pistol next to his head	Not Guilty
Spec 2:	Assault an Iraqi by spraying his face or body with a fire extinguisher	Not Guilty

11. I agree to request trial by ^{enlisted} military judge alone, and waive my right to a trial by members. (C) NOT PLEA

12. In return for my pleas of Guilty to the charges and specifications as set forth in paragraph 10, and following the military judge's acceptance of my guilty pleas, the convening authority agrees to withdraw the charges and specifications to which I have pled Not Guilty. Upon pronouncement of the sentence by the military judge, the withdrawn charges and specifications will be dismissed with prejudice by the convening authority.

13. If provided with a grant of testimonial immunity, and an order to testify, I agree to fully cooperate with the government lawyers in the case of U.S. v. CPL S. A. Burton, and to testify truthfully if called as a witness at his special court martial, currently set for trial in May.

14. For the purpose of this Agreement, misconduct is defined as any act or omission I commit in violation of the UCMJ.

15. All the provisions of this Agreement are material.

a. If I violate any provision of the Agreement or commit any misconduct before trial, the convening authority may withdraw from this Agreement; or

b. If I violate any provision of the Agreement or commit any misconduct between the date of trial and completion of my sentence, including suspension periods, the convening authority may order executed the full sentence, and I may lose the benefit of any disapproval or suspension provision contained in the Maximum Sentence Limitation portion, following a vacation hearing pursuant to Rule for Courts-Martial 1109, Manual for Courts-Martial (2002 edition).

16. This Agreement constitutes all the conditions and understandings of both the Government and myself regarding the pleas and sentence limitations in this case.

PRETRIAL AGREEMENT SENTENCE LIMITATION
SIGNATURE PAGE FOR SGT A. R. TAYLOR

Accused:

Alan R. Taylor

ALAN R. TAYLOR
Sergeant
U.S. Marine Corps

Date: 040322

Defense Counsel:

W. A. Folk

W. A. FOLK
Captain
U. S. Marine Corps

Date: 040322

The foregoing pretrial agreement is approved.

P. J. Malay

P. J. MALAY
Lieutenant Colonel
U.S. Marine Corps
Commanding

Date: 25 March 04

UNITED STATES MARINE CORPS
IN THE SIERRA JUDICIAL CIRCUIT

UNITED STATES

v.

ALAN R. TAYLOR
(b)(6)
SERGEANT
U.S. MARINE CORPS

SPECIAL COURT-MARTIAL

SENTENCE LIMITATION

1. Punitive Discharge: As adjudged.
2. Confinement: All confinement in excess of thirty (30) days will be suspended for a period of twelve (12) months from the date of the convening authority's action, at which time unless sooner vacated, the suspended portion will be remitted without further action ~~be disapproved~~ **BY COURT**

3. Forfeitures:

a. Adjudged Forfeitures: As adjudged, however any adjudged forfeitures will be suspended for twelve (12) months from the date of the convening authority's action, at which time, unless sooner vacated, the suspended forfeitures will be remitted without further action. This Agreement constitutes the accused's request for, and the convening authority's approval of, deferment of those adjudged forfeitures of pay and allowances which are to be suspended pursuant to the terms of this Agreement and would otherwise become effective under Article 57(a)(1), UCMJ. The period of deferment will run from the date adjudged forfeitures would otherwise become effective until the date of the convening authority's action.

b. Automatic Forfeitures: Automatic forfeitures will be deferred. This Agreement constitutes the accused's request for, and the convening authority's approval of, deferment of automatic forfeitures pursuant to Article 58b(a)(1), UCMJ. The period of deferment will run from the date automatic forfeitures would otherwise become effective under Article 58b(a)(1), UCMJ, until the date the convening authority acts on the sentence. Further, this Agreement constitutes the accused's request for, and the convening authority's approval of, waiver of automatic forfeitures. The period of waiver will run from the date the convening authority takes action on the sentence for six months. The waived forfeitures shall be paid to

(b)(6)

4. Reduction: As adjudged; however, any adjudged reduction in pay grade below E-3 will be suspended for twelve (12) months from the date of the convening authority's action, at which time, unless sooner vacated, the suspended reduction will be remitted without further action. Any reduction effected under Article 58a, UCMJ, and JAGMAN, § 0152, below paygrade E-3 will also be suspended for a period twelve (12) months from the date the sentence is adjudged, at which time, unless sooner vacated, the portion of the reduction suspended will be remitted without further action. This Agreement constitutes the accused's request for, and the convening authority's approval of, deferment of that adjudged reduction which is to be suspended pursuant to the terms of this Agreement and would otherwise become effective under Article 57(a)(1), UCMJ. The period of deferment will run from the date adjudged reduction would otherwise become effective until the date of the convening authority's action.

5. Other lawful punishments: As adjudged.

This agreement constitutes my request for, and the convening authority's approval of, deferment of all confinement suspended pursuant to the terms of this agreement. The period of deferment will run from the date of trial until the date the convening authority acts on the sentence.

APPELLATE EXHIBIT IX

PRETRIAL AGREEMENT SIGNATURE PAGE FOR SGT A. R. TAYLOR

Accused:

Alan R. Taylor
ALAN R. TAYLOR
Sergeant
U.S. Marine Corps

Date: 040282

Defense Counsel:

W. A. Folk
W. A. FOLK
Captain
U. S. Marine Corps

Date: 040322

The foregoing pretrial agreement is approved.

P. J. Malay
P. J. MALAY
Lieutenant Colonel
U.S. Marine Corps
Commanding

Date: 25 March 84

UNITED STATES MARINE CORPS
IN THE SIERRA JUDICIAL CIRCUIT
SPECIAL COURT-MARTIAL

UNITED STATES)	
)	
v.)	SENTENCE
)	
ALAN R. TAYLOR)	WORKSHEET
Sergeant)	
(b)(6))	
U.S. Marine Corps)	

[NOTE: After the court members have reached their findings, the President shall strike out all inapplicable language. After the Military Judge has reviewed the worksheet, the President will announce the findings by reading the remaining language. The President will not read the language in bold print.]

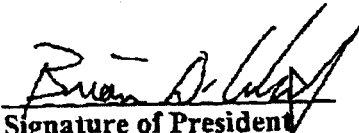
Sergeant Alan R. Taylor, this court-martial sentences you:

1. To no punishment.
~~REPRIMAND~~
 2. To be reprimanded.
~~REDEGRATION~~
 3. To be reduced to the grade of E-3.
~~FORFEITURES~~
 4. To forfeit \$ pay per month for months.
 5. To forfeit pay and allowances.
~~RESTRAINT AND HARD LABOR~~
 6. To be restricted for (days) (months) to the limits of:
- (NOTE: Not to exceed two months.)
7. To perform hard labor without confinement for 30 (days) (months). APPELLATE EXHIBIT X

8. To be confined for BDW (days) (months).

BDW
PUNITIVE DISCHARGE

9. To be discharged from the service with a Bad Conduct Discharge.


Signature of President

APPELLATE EXHIBIT X

PAGE 2 OF 3

E-5 \$1327
E-4 \$1209
E-3 \$1056
E-2 \$891
E-1 \$795

APPELLATE EXHIBIT X

PAGE 3 OF 3

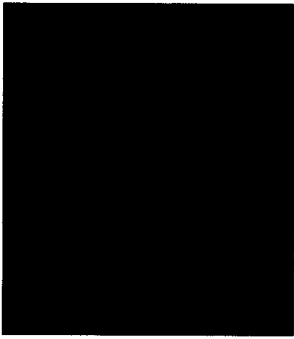
MEMBER'S QUESTION

Directed to: LCpl (b)(6)

How long were the Iraqi detainees in the FSS
tank for ?

TC: _____
(Obj)

DC: _____
(Obj)

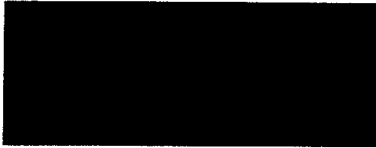


APPELLATE EXHIBIT XI

Enc) (3)

UNITED STATES

v.



)
)
)
)
)
)
)

COURT-MARTIAL

WITH MEMBERS

MEMBER'S QUESTION

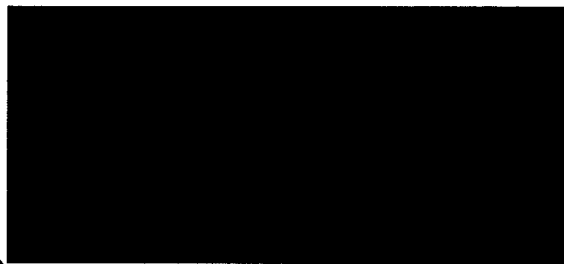
Directed to

Capt

(b)(6)

(NAME OF WITNESS)

What is your opinion of Sgt Taylor's professionalism and conduct as an NCO?



	Obj	39a	No Obj
TC			
DC			

→ if limited to the time period discussed in direct ^{web}

APPELLATE EXHIBIT

XII

APPELLATE AND POST-TRIAL RIGHTS

You are advised that your defense counsel (DC) is required by law to fully explain to you the following post-trial and appellate rights, and, that you have the right to request the military judge explain all or any portion of your appellate rights in open court prior to adjournment of your court-martial.

Record of trial (ROT)

A copy of the ROT will be prepared and given to you. You may request that your copy of the ROT be delivered to your DC.

Staff Judge Advocate or Legal Officer's Recommendation (SJAR)

If you received a punitive discharge or were sentenced by a general court-martial, the convening authority (CA)'s staff judge advocate or legal advisor will submit an SJAR to the CA. Before forwarding the SJAR and the ROT to the CA, this legal advisor will serve a copy of the SJAR upon your DC. A separate copy will be served on you. If it is impracticable to serve the SJAR on you for reasons including, but not limited to, your transfer to a distant place, your unauthorized absence, or military exigency, your copy will be forwarded to your DC. You may also request on the record at this court-martial or in writing that your copy be sent to your DC instead of yourself.

Submission of Matters to the Convening Authority

You have a right to submit matters to the CA before that officer takes action on your case. In this regard, you have the right to request deferment of any sentence to confinement. These matters must be submitted within 10 days after a copy of the authenticated ROT or, if applicable, the SJAR, is served on you or your DC, whichever is later. The CA may extend these periods, for good cause, for not more than an additional 20 days. Failure to submit matters within the time prescribed waives the right to submit matters later.

Action by the Convening Authority

The CA will take action on the sentence adjudged and may, in his discretion, take action on findings of guilty. The action to be taken on the findings and sentence is within the sole discretion of the CA and is a matter of command prerogative. The CA is not required to review the case for legal errors or factual sufficiency. In taking action on the sentence, the CA may approve, disapprove, commute, or suspend the sentence in whole or in part. The CA may never increase the severity of the sentence. The CA is not empowered to reverse a finding of not guilty; however, the CA may change a finding of guilty to a charge or specification to a finding of guilty to a lesser offense included within that charge or specification, may disapprove a finding of guilty and order a rehearing, or may set aside and dismiss any charge or specification.

Review

If you were tried by a special court-martial and your sentence, as finally approved by the CA, does not include a punitive discharge, your case will be reviewed under the direction of the staff judge advocate for the CA's superior general court-martial convening authority (GCMCA). You may suggest, in writing, possible legal errors for the judge advocate to consider and that judge advocate must file a written response to legal errors noted by you. After such review, and completion of any required action by the GCMCA, you may request the Judge Advocate General of the Navy (TJAG) to take corrective action. Such a request must be filed within two years of the CA's action, unless the time is extended for good cause.

If you were tried by a general court-martial and your sentence, as finally approved by the CA, does not include a punitive discharge or at least one year's confinement, your case will be forwarded to TJAG. You may suggest in writing, possible legal errors or other matters for consideration by TJAG. The ROT may be examined for any legal errors

and for appropriateness of the sentence and TJAG may take corrective action, if appropriate.

If your sentence, as finally approved by the CA, includes a punitive discharge (regardless of the type of court-martial), dismissal, a year or more of confinement, or death, your case will be reviewed by the Navy-Marine Corps Court of Criminal Appeals (NMCCA) for legal errors, factual sufficiency, and appropriateness of sentence. This review is automatic. Following this, your case could be reviewed by the United States Court of Appeals for the Armed Forces (CAAF), and finally it might be reviewed by the United States Supreme Court.

Waiver of Review

You may waive appellate review, giving up the foregoing rights, or you may withdraw your case from appellate review at a later time. Once you file a waiver of withdrawal, your decision is final and appellate review is barred. If you waive or withdraw appellate review, your case will be reviewed by a judge advocate for certain legal errors. You may submit, in writing, suggestions of legal errors for consideration by the judge advocate, who must file a written response to each. The judge advocate's review will be sent to the GCMCA for final action. Within two years after such final action, you may request TJAG to take corrective action in your case. The two year period may be extended for good cause. You have the right to the advice and assistance of counsel in exercising or deciding to waive your post-trial and appellate rights.

Right to Counsel

It is your DC's responsibility to represent you during the CA's action stage of your court-martial conviction. Your DC is responsible for examining the ROT for error and, where applicable, the SJAR for errors or omissions. It is your DC's obligation to advise and assist you in preparing matters for submission to the CA for consideration prior to action being taken on the ROT.

If your case is reviewed by NMCCA, military counsel will be appointed to represent you at no cost to you and, if you choose, you may engage a civilian counsel at no expense to the United States. If your case should be reviewed by CAAF or by the United States Supreme Court, you would continue to have the same appellate counsel rights before these courts.

Acknowledgment

I acknowledge (1) that prior to adjournment of my court-martial, I was provided with the above written advice; (2) that I have read and I understand my post-trial and appellate rights; (3) that I discussed my rights with my DC prior to signing this form; and (4) that the military judge will discuss my appellate rights with me on the record prior to adjournment of the court, if I so desire.

I specifically request that my copy of the ROT be delivered to:

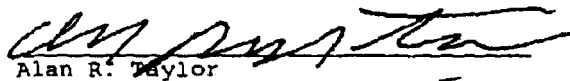
_____ me. X my counsel, Captain William A. Folk.

I specifically request that my copy of the SJAR be delivered to:

_____ me. X my counsel, Captain William A. Folk.



William A. Folk
Captain
USMC
Detailed Defense Counsel



Alan R. Taylor
Sergeant
USMC
Accused

APPELLATE EXHIBIT 111

UNITED STATES

v.

)
)
)
)
)
)
)

COURT-MARTIAL

WITH MEMBERS

MEMBER'S QUESTION

Directed to _____

(NAME OF WITNESS)

What is hard labor and who in the command decides what it will consist of?

Lt Everett

(Member's Signature)

	Obj	39 a	No Obj
TC			<i>N</i>
DC			<i>MA</i>

APPELLATE EXHIBIT

XIV

UNITED STATES

v.

)
)
)
)
)
)
)

COURT-MARTIAL

WITH MEMBERS

MEMBER'S QUESTION

Directed to

(NAME OF WITNESS)

WHO DECIDES WHAT A REPRIMAND IS AND
WHAT IT CONSISTS OF?

CAPT COLLINS

(Member's Signature)

	Obj	39a	No Obj
TC			N
DC			NR

APPELLATE EXHIBIT

XVI