

# COURT-MARTIAL RECORD

NAME FREDERICK, IVAN L., II SSG

SSN [REDACTED] (b)(6) - (c) - 2

**ACTIONS CODED:**

INITIAL SEP 21 2005

ACCA \_\_\_\_\_

FINAL \_\_\_\_\_

**ASSIGNED TO:**

PANEL 4

EXAM. DIV. \_\_\_\_\_

COMPANION(S): SEE REVERSE SIDE

**RETURN THIS FILE TO:**

**OFFICE OF THE CLERK OF COURT**

**US ARMY JUDICIARY**

**901 NORTH STUART STREET, SUITE 1200**

**ARLINGTON, VA 22203-1837**

VOL I OF VIII VOL(S)  
Volume VIII is ARMY MISC 20040937

ARMY 20041129

G

20041129

**VERBATIM<sup>1</sup>**  
**RECORD OF TRIAL<sup>2</sup>**  
(and accompanying papers)

OF

FREDERICK, Ivan L., II  
(NAME: Last, First Middle Initial)  
HHC, 16th MP Bde (ABN)  
III Corps  
(unit/Command Name)

[REDACTED] (b)(6) (7)(C) (2)  
(Social Security Number)

Staff Sergeant  
(Rank)

US Army  
(Branch of Service)

Victory Base, Iraq  
(Station or Ship)

BY

GENERAL COURT-MARTIAL

CONVENED BY COMMANDING GENERAL  
(Title of Convening Authority)

Headquarters, III Corps  
(Unit/Command of Convening Authority)

TRIED AT

Baghdad and Victory Base, Iraq  
(Place or Places of Trial)

ON

19 May, 21-22 Jun; 24 Aug;  
20-21 Oct 04  
(Date or Dates of Trial)

- COMPANION CASES:** SPC Megan M. Ambuhl – ARMY 20041130 – referred Clerk of Court 01-13-05  
SPC Jeremy C. Sivits – ARMY 20040551 – P.4  
SGT Javal S. Davis – ARMY 20050180 - CMCR  
SPC Charles A. Graner – ARMY 20050054 - CMCR  
SPC Sabrina D. Harman – ARMY 20050597 - CMCR  
SPC Armin J. Cruz – ARMY 20040973 – P.4  
PFC Lynndie R. England – No Case Record  
SPC Roman Krol – ARMY 20050179 – P.4

CLEARING HOUSE  
2005 SEP 20 A 7:24  
US ARMY JUDICIARY

Allied documents through transcript R.199

ARMY  
816

018015

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

## CHRONOLOGY SHEET<sub>1</sub>

In the case of U.S. v. Staff Sergeant Ivan L. Frederick II  
(Rank and Name of Accused)

Date of alleged commission of earliest offense tried: 20 October 2003  
(Enter Date)

Date record forwarded to The Judge Advocate General: <sup>2</sup>

(b)(6)-2 (b)(7)(C)-2

(b)(6)-2; (b)(7)(C)-2 (Enter Date)

[Redacted] LTC, JA, Chief, Criminal Law Division

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

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

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

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

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

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

**6** Only this item may be deducted

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

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

Action	Date 2004-2005	Cumulative Elapsed Days
1. Accused placed under restraint by military authority <sup>4</sup>	----	----
2. Charges preferred (date of affidavit)	20 Mar 04	----
3. Article 32 investigation (date of report) <sup>5</sup>	18 Apr 04	29
4. Charges received by convening authority	5 May 04	46
5. Charges referred for trial	5 May 04	46
6. Sentence or acquittal	21 Oct 04	215
Less days:		
Accused sick, in hospital or AWOL		
Delay at request of defense		
Total authorized deduction <sup>6</sup>		
7. Net elapsed days to sentence or acquittal		
8. Record received by convening authority	1 May 05	407
Action <sup>7</sup>	7 Sep 05	482 (-54)
9. Record received by officer conducting review under Article 64(a)		
Action <sup>8</sup>		

**REMARKS**

- Post trial defense delay from 30 June 2005 to 23 August 2005. Total of 54 days.
- Investigation of the most serious charge was initiated on 13 January 2004. The accused was arraigned on 19 May 2004. Total of 127 days.

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20041129

DEPARTMENT OF THE ARMY  
U.S. ARMY HUMAN RESOURCES COMMAND  
200 STOVALL STREET  
ALEXANDRIA, VA 22332-0470

AHRC-PDZ-RC  
ORDERS A-11-411895

19 NOV 2004

FREDERICK IVAN LOWELL II  
HC 2 BOX 235  
BUCKINGHAM VA 23921

PVI  
ARMY NATIONAL GUARD

[REDACTED] (b)(6)-2;  
(b)(7)(C)-2

(b)(6)-2-7(c)-2

[REDACTED] (b)(6)-2  
(b)(7)(c)-2

YOU ARE ORDERED TO ACTIVE DUTY IN THE GRADE OF RANK SHOWN ABOVE FOR THE PERIOD SHOWN IN ACTIVE DUTY COMMITMENT BELOW. YOU WILL PROCEED FROM YOUR CURRENT LOCATION IN TIME TO REPORT ON THE DATE SHOWN BELOW.

RPT TO: CORRECTIONAL HOLD DE W21B1A FT LEAVENWORTH KS 66027  
REPORT DATE/TIME: 29 NOV 2004 BETWEEN 0800 AND 1700 HRS.  
ASG TO: CORRECTIONAL HOLD DE W21B1A FT LEAVENWORTH KS 66027  
ACTIVE DUTY COMMITMENT: 2 YEARS  
PURPOSE: UCMJ PROCESSING. END DATE: 28 NOV 2006

ADDITIONAL INSTRUCTIONS: RELIEVED FROM RESERVE COMPONENT ASSIGNMENT ON THE DAY PRECEDING EFFECTIVE DATE OF ORDER. INDIVIDUAL WILL BE RETAINED ON ACTIVE DUTY IN HIS OR HER CURRENT GRADE AND IS INCLUDED IN THE ACTIVE ARMY END STRENGTH. ACCESSION INTO DJMS-AC WILL REFLECT A SVC COMP OF "R". SHIPMENT OF HHG AND TRAVEL OF DEP NOT APPLICABLE. SPECIAL EXCEPTION NOT TO ISSUE A DD FORM 214 TO SOLDIERS THAT ARE IN 12301, 12302 OR 12304 STATUS THAT REVERT TO R.C.M. 202 STATUS. A DD 214 WILL BE ISSUED UPON COMPLETION OF R.C.M. SERVICE. ALL PREVIOUS ACTIVE DUTY SERVICE PRIOR TO R.C.M. STATUS WILL BE ACCOUNTED FOR IN BLOCK 18 OF THE DD 214. EARLY RELEASE AUTHORIZED. PVI DATE OF RANK 20041021

405

[REDACTED] (b)(6)-2  
(b)(7)(c)-2

FOR ARMY USE: AUTHORITY: R.C.M. 202(C), AR 27-10 CH 21, AR 135-200 (7-4)  
ACCT CLAS: NONE

MDC: 1AE5 MOR: SAME AS SNL RES GR: PVI  
SEX: M PPN: N/A COMP: ARNG SCTY CL: NONE  
DORRES: 16 NOV 1998 PEBD: 17 FEB 1984

PMOS/SSI: 31B3

FORMAT: 460  
BY ORDER OF THE SECRETARY OF THE ARMY:

(b)(6)-2; (b)(7)(C)-2

\*\*\*\*\*  
\* AHRC \*  
\* OFFICIAL \*  
\*\*\*\*\*

LWS, AG  
CHIEF, RC SPT SVC DIV

DISTRIBUTION: 1 SOLDIER  
1 CORRECTIONAL HOLD DE FT LEAVENWORTH KS 66027  
1 372 MP CO COMBAT SUP 14418 MCMULLEN HWY SW CUMBERLAND MD 21502 5605  
1 M DARNG ELEMENT, JF H MILPO 5TH REG ARMORY BALTIMORE MD 21201

[REDACTED] (b)(6)-2  
(b)(7)(c)-2

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20041129

DEPARTMENT OF THE ARMY  
U.S. ARMY HUMAN RESOURCES COMMAND  
200 STOVALL STREET  
ALEXANDRIA, VA 22332-0470

19 NOV 2004

AHRC-PDZ-RC  
ORDERS A-10-410340R

FREDERICK IVAN LOWELL II  
HC 2 BOX 235  
BUCKINGHAM VA 23921

SSG [REDACTED]  
WTEZAA

(b)(6)-2;  
(b)(7)(C)-2

THE FOLLOWING ORDER IS REVOKED OR RESCINDED AS SHOWN.

ACTION: RESCIND UNEXECUTED PORTION OF ACTIVE DUTY ORDER EFFECTIVE 28 NOV 2004

SO MUCH OF: FORMAT 460 A-10-410340 AHRC DATED 13 OCT 2004

PERTAINING TO: EXTENDED ACTIVE DUTY ORDER OF  
FREDERICK IVAN LOWELL II  
[REDACTED] SSG 31B3

(b)(6)-2; (b)(7)(C)-2

FOR ARMY USE: AUTHORITY: R.C.M. 202(C), AR 27-10 CH 21, AR 135-200 (7-4)

FORMAT: 705  
BY ORDER OF THE SECRETARY OF THE ARMY:

(b)(6)-2; (b)(7)(C)-2

\*\*\*\*\*  
\* AHRC \*  
\* OFFICIAL \*  
\*\*\*\*\*

[REDACTED]  
CWS, AG  
CHIEF, RC SPT SVC DIV

DISTRIBUTION: 1 SOLDIER  
1 16 MP BDE FWD FT BRAGG NC 28310  
1 372 MP CO COMBAT SUP 14418 MCMULLEN HWY SW CUMBERLAND MD 21502 5605

018018

20041129

DEPARTMENT OF THE ARMY  
U.S. ARMY HUMAN RESOURCES COMMAND  
200 STOVALL STREET  
ALEXANDRIA, VA 22332-0470

AHRC-PDZ-RC  
ORDERS A-10-410340

13 OCT 2004

FREDERICK IVAN LOWELL II  
HC 2 BOX 235  
BUCKINGHAM VA 23921

SSG  
WTEZAA [REDACTED]

(b)(6)2-(b)(7)(C)-2

YOU ARE ORDERED TO ACTIVE DUTY IN THE GRADE OF RANK SHOWN ABOVE FOR THE PERIOD SHOWN IN ACTIVE DUTY COMMITMENT BELOW. YOU WILL PROCEED FROM YOUR CURRENT LOCATION IN TIME TO REPORT ON THE DATE SHOWN BELOW.

RPT TO: 16 MP BDE FWD WFP6A1 FT BRAGG NC 28310  
REPORT DATE/TIME: 12 SEP 2004 BETWEEN 0800 AND 1700 HRS.  
ASG TO: 16 MP BDE FWD WFP6A1 FT BRAGG NC 28310  
DUTY AT: VICTORY BASE IRAQ APO AE 09342  
ACTIVE DUTY COMMITMENT: 6 MONTHS  
PURPOSE: UCMJ PROCESSING.  
END DATE: 09 MAR 2005

ADDITIONAL INSTRUCTIONS: RELIEVED FROM RESERVE COMPONENT ASSIGNMENT ON THE DAY PRECEDING EFFECTIVE DATE OF ORDER. INDIVIDUAL WILL BE RETAINED ON ACTIVE DUTY IN HIS OR HER CURRENT GRADE AND IS INCLUDED IN THE ACTIVE ARMY END STRENGTH. ACCESSION INTO DJMS-AC WILL REFLECT A SVC COMP OF "R". SHIPMENT OF HHG AND TRAVEL OF DEP NOT APPLICABLE. SPECIAL EXCEPTION NOT TO ISSUE A DD FORM 214 TO SOLDIERS THAT ARE IN 12301, 12302 OR 12304 STATUS THAT REVERT TO R.C.M. 202 STATUS. A DD 214 WILL BE ISSUED UPON COMPLETION OF R.C.M. SERVICE. ALL PREVIOUS ACTIVE DUTY SERVICE PRIOR TO R.C.M. STATUS WILL BE ACCOUNTED FOR IN BLOCK 18 OF THE DD 214. EARLY RELEASE AUTHORIZED.

FOR ARMY USE: AUTHORITY: R.C.M. 202(C), AR 27-10 CH 21, AR 135-200 (7-4)  
ACCT CLAS: NONE

MDC: 1AE4 HOR: SAME AS SNL PMOS/SSI: 31B3  
SEX: M PPN: N/A COMP: USAR RES GR: SSG  
DORRES: 16 NOV 1998 FEBD: 17 FEB 1984 SCTY CL: NONE

FORMAT: 460  
BY ORDER OF THE SECRETARY OF THE ARMY:

(b)(6)2;(b)(7)(C)-2

\*\*\*\*\*  
\* AHRC \*  
\* OFFICIAL \*  
\*\*\*\*\*

[REDACTED]  
CW5, AG  
CHIEF, RC SPT SVC DIV

DISTRIBUTION: 1 SOLDIER  
1 16 MP BDE FWD FT BRAGG NC 28310  
1 372 MP CO COMBAT SUP 14418 MCMULLEN HWY SW CUMBERLAND MD 21502 5605

018019

20041129

DEPARTMENT OF THE ARMY  
U.S. ARMY HUMAN RESOURCES COMMAND  
200 STOVALL STREET  
ALEXANDRIA, VA 22332-0470

AHRC-PDZ-RC  
ORDERS A-10-410340

13 OCT 2004

FREDERICK IVAN LOWELL II  
HC 2 BOX 235  
BUCKINGHAM VA 23921

SSG [REDACTED]  
WTEZAA

(b)(6)-2; (b)(7)(C)-2

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ACCT CLAS: NONE

MDC: 1AE4 HOR: SAME AS SNL PMOS/SSI: 31B3  
SEX: M PPN: N/A COMP: USAR RES GR: SSG  
DORRES: 16 NOV 1998 PEBD: 17 FEB 1984 SCTY CL: NONE

FORMAT: 460  
BY ORDER OF THE SECRETARY OF THE ARMY:

(b)(6)-2; (b)(7)(C)-2

\*\*\*\*\*  
\* AHRC \*  
\* OFFICIAL \*  
\*\*\*\*\*

[REDACTED]  
CW5, AG  
CHIEF, RC SPT SVC DIV

DISTRIBUTION: 1 SOLDIER  
1 16 MP BDE FWD FT BRAGG NC 28310  
1 372 MP CO COMBAT SUP 14418 MCMULLEN HWY SW CUMBERLAND MD 21502 5605

018020

20041129

UNITED STATES

v.

FREDERICK, Ivan L., II  
SSG, U.S. Army, [REDACTED] (b)(6)-2, (b)(7)C-2  
HHC,  
16th MP BDE, III Corps  
Victory Base, Iraq APO AE 09342

)  
)  
) POST TRIAL AND APPELLATE  
) RIGHTS

)  
)  
) 17 OCT 2004  
)  
)

\*\*\*\*\*

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

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

018021

APPELLATE EXHIBIT XXVII

Recognized R. 608  
20041129

that Court, I may request review by the Supreme Court of the United States. I would have the same rights to counsel before those courts as I have before the USACCA.

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

7. I may waive or withdraw review by the appellate courts (subparagraph 4-5, above) or the Office of The Judge Advocate General (subparagraph 6, above) at any time before such review is completed. I understand that if I waive or withdraw review:

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

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

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

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

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

ILF b. I would like a copy of the record of trial served on: my Defense Counsel, [REDACTED] and myself. (b)(6)-3  
(b)(7)(C)-3

ILF c. My defense counsel, [REDACTED], will submit R.C.M. 1105 matters in my case. (b)(6)-3 ; (b)(7)(C)-3

ILF d. I want to be represented before the Army Court of Criminal Appeals by Appellate Defense Counsel appointed by the Judge Advocate General of the Army. I understand that I may contact my Appellate Defense Counsel by writing to Defense Appellate Division, U.S. Army Legal Services Agency (JALS-DA), 901 North Stuart Street, Arlington, Virginia 22203.

018022

ALF e. I have been informed that I have the right to retain civilian counsel at my expense. My civilian counsel's name, address, and telephone are as follows:

[REDACTED]

(b)(6)-3; (b)(7)(C)-3

Should I later retain different civilian counsel, I will furnish the above information to: Clerk of Court, U.S. Army Judiciary (JALS-CC), 901 North Stuart Street, Suite 1200, Arlington, Virginia 22203-1837.

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

Name: [REDACTED]  
Street: [REDACTED]  
City, State, Zip: [REDACTED]  
Area Code & Telephone: [REDACTED]  
E-MAIL: [REDACTED]

(b)(6)-3; (b)(7)(C)-3

17 OCT 2004  
(Date)

*Ivan L. Frederick II*  
IVAN L. FREDERICK II  
SSG, USA  
Accused

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

17 OCT 2004  
(Date)

[REDACTED] (b)(6)-2;  
[REDACTED] (b)(7)(C)-2  
CPT, JA  
Defense Counsel

018023

# COURT-MARTIAL DATA SHEET

1. OJAG NUMBER

2. NAME (Last, First, Middle Initial)  
FREDERICK, Ivan L., II

3. SOCIAL SECURITY

[REDACTED]

4. RANK  
SSG

5. UNIT/COMMAND NAME  
HHC, 16th MP Bde (Abn), Fort Bragg,  
North Carolina 28307

## (b)(6)-2, (b)(7)(c)-2 INSTRUCTIONS

When an item is not applicable to the record of trial being reviewed, mark the proper block with a diagonal line similar to the ones which appear in the SPCMCA blocks for items 6a and b.

### KEY TO USE

**TC - Trial Counsel.** This column will be completed in all cases in which a finding of guilty is returned.

**SPCMCA - Special Court-Martial Convening Authority** who is not empowered to convene a general court-martial. This column will be completed in each special court-martial case by the SPCMCA or his/her designated representative.

**GCM or JA - General Court-Martial Convening Authority or Judge Advocate.** This column will be completed in any case in which the record is forwarded by the commander exercising general court-martial jurisdiction to The Judge Advocate General of the branch of service concerned. If the record is reviewed under Article 64(a), UCMJ, this column will be completed by the judge advocate accomplishing the review

**OJAG - Appropriate appellate agency in the Office of The Judge Advocate General** of the branch of service concerned. This column will be disregarded if a record of trial was reviewed under Article 64, UCMJ, and in cases where there are no approved findings of guilty.

**References - All references are to the Uniform Code of Military Justice (UCMJ) and the Manual for Courts-Martial, United States (MCM), 1984.**

### SECTION A - PRETRIAL AND TRIAL PROCEDURE

	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
6. a. If a general court-martial: Was the accused represented in the Article 32 investigation by civilian or military counsel of his/her own selection or by counsel qualified within the meaning of Article 27(b), UCMJ?	X				X			
b. If not: Did the accused waive his/her right to such representation?	/	/			/	/		
7. Does the record show place, date, and hour of each Article 39(a) session, the assembly and each opening and closing thereafter?	X				X			
8. a. Are all convening and amending orders of courts to which charges were referred entered in the record?	X				X			
b. Are court members named in the convening orders, detailed military judge (if any), counsel and the accused accounted for as present or absent?	X				X			
c. Was less than a quorum present at any meeting requiring the presence of court members (RCM 805)?		X				X		
d. Does the record show that after each session, adjournment, recess, or closing during the trial, the parties to the trial were accounted for when the court reopened (A13-5)?	X				X			
e. If the military judge or any member present at assembly was thereafter absent, was such absence the result of challenge, physical disability or based on good cause as shown in the record of trial (RCM 505(c)(2)(A))?	X				X			
9. Were the reporter and interpreter, if any, sworn or previously sworn?	X				X			
10. a. Was the military judge properly certified (RCM 502(c))?	X				X			
b. Was the military judge properly detailed (RCM 503(b))?	X				X			
c. Was the military judge present during all open sessions of the court?	X				X			
11. a. Was the accused advised that:								
(1) He/she had the right to be represented free of charge by a military lawyer of his/her own selection, if reasonably available, in which case detailed counsel might be excused (RCM 506(a))?	X				X			

## COURT-MARTIAL DATA SHEET

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

**COURT-MARTIAL DATA SHEET**

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

**018026**

**COURT-MARTIAL DATA SHEET**

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

**COURT-MARTIAL DATA SHEET**

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

55. REMARKS:

**COURT-MARTIAL DATA SHEET**

55. REMARKS (Continued):

(b)(6)-2; (b)(7)(c)-2

**56. TRIAL COUNSEL**

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED
[REDACTED]	CPT For [REDACTED]	[REDACTED]	14 Sept 2008

**57. CONVENING AUTHORITY OR HIS/HER REPRESENTATIVE**

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

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

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED
[REDACTED]	LTC	[REDACTED]	14 Sept 2008

**59. ACTION IN THE OFFICE OF THE JUDGE ADVOCATE GENERAL**

a. ACTION:

**b. INDIVIDUAL COMPLETING DATA SHEET**

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

DNA processing required. 10 U.S.C. § 1565.

DEPARTMENT OF THE ARMY  
Headquarters, III Corps and Fort Hood  
Fort Hood, Texas 76544-5001

GENERAL COURT-MARTIAL ORDER  
NUMBER

7 September 2005

29

(b)(6)-2 (b)(7)(C)-Z

Staff Sergeant Ivan L. Frederick II, [REDACTED], U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Fort Bragg, North Carolina 28307, was arraigned at Baghdad and Victory Base, Iraq on the following offenses at a general court-martial convened by the Commander, III Corps and the case was later transferred to the Commander, III Corps and Fort Hood upon redeployment from Iraq.

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

Specification 1: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 24 October 2003, conspire with Corporal Charles A. Graner, Jr. and Private First Class Lynndie R. England, to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy the said Staff Sergeant Frederick handcuffed three detainees together and directed the said Private First Class England to photograph the detainees. Plea: Not Guilty. Finding: Not Guilty.

Specification 2: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, conspire with Sergeant Javal S. Davis, Corporal Charles A. Graner, Jr., Specialist Jeremy C. Sivits, Specialist Sabrina D. Harman, Specialist Megan M. Ambuhl, and Private First Class Lynndie R. England, to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy the said Staff Sergeant Frederick did place naked detainees in a human pyramid and photographed the pyramid of naked detainees. Plea: Guilty, excepting the words "did place naked detainees in a human pyramid and". To the excepted words: not guilty. Finding: Guilty, excepting the words "did place naked detainees in a human pyramid and". To the excepted words: not guilty.

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

Specification: Was, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, from on or about 20 October 2003 to on or about 1 December 2003, derelict in the performance of his duties in that he willfully failed to protect detainees from abuse, cruelty and maltreatment, as it was his duty to do. Plea: Guilty. Finding: Guilty.

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

Specification 1: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by participating in and allowing the placing of wires on the detainee's hands while he stood on a Meals Ready to Eat box with his head covered and allowing the detainee to be told he would be electrocuted if he fell off of the box, and allowing the detainee to be photographed. Plea: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty. Finding: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty.

Specification 2: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several detainees, persons subject to his orders, by placing naked detainees in a human pyramid and photographing the pyramid of naked detainees. Plea: Guilty, excepting the words "placing naked detainees in a human pyramid and". To the excepted words: not guilty. Finding: Guilty, excepting the words "placing naked detainees in a human pyramid and". To the excepted words: not guilty.

Specification 3: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several detainees, persons subject to his orders, by ordering the detainees to strip, and then ordering the detainees to masturbate in front of the other detainees and soldiers, and then placing one in a position so that the detainee's face was directly in front of the genitals of another detainee to simulate fellatio and photographing the detainees during these acts. Plea: Guilty, excepting the words "and then placing one in a position so that the detainee's face was directly in front of the genitals of another detainee to simulate fellatio and photographing the detainees during these acts". To the excepted words: not guilty. Finding: Guilty, excepting the words "and then placing one in a position so that the detainee's face was directly in front of the genitals of another detainee to simulate fellatio and photographing the detainees during these acts". To the excepted words: not guilty.

Specification 4: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by posing for a photograph sitting on top of a detainee who was bound by padded material between two medical litters. Plea: Guilty. Finding: Guilty.

Specification 5: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat two detainees, persons subject too his orders,

GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

by grabbing the hands and arms of the said detainees and ordering them to strike or punch each other, with the detainees then striking or punching each other. Plea: Not Guilty. Finding: Not Guilty.

Charge IV: Article 128. Plea: Guilty. Finding: Guilty.

Specification 1: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, unlawfully strike several detainees by jumping on and impacting the bodies within a pile of said detainees with his shoulder or upper part of his body. Plea: Not Guilty. Finding: Not Guilty.

Specification 2: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, unlawfully stomp on the hands and bare feet of several detainees with his shod feet. Plea: Not Guilty. Finding: Not Guilty.

Specification 3: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, commit an assault upon a detainee by striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching the detainee with a closed fist in the center of the chest with enough force to cause the detainee to have difficulty breathing and require medical attention. Plea: Not guilty, but guilty of the lesser included offense of assault consummated by a battery, excepting the words "striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching with enough force to cause the detainee to have difficulty breathing and require medical attention" and substituting therefore the words "unlawfully striking a detainee in the chest with a closed fist." To the excepted words: not guilty. To the substituted words: guilty. Finding: Not guilty, but guilty of the lesser included offense of assault consummated by a battery, excepting the words "striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching with enough force to cause the detainee to have difficulty breathing and require medical attention" and substituting therefore the words "unlawfully striking a detainee in the chest with a closed fist." To the excepted words: not guilty. To the substituted words: guilty.

Charge V: Article 134. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, wrongfully commit an indecent act with detainees, ~~\_\_\_\_\_~~ Corporal Charles A. Graner, Jr., Specialist Megan M. Ambuhl, and Private First Class Lynndie R. England, by observing a group of detainees masturbating, or attempting to masturbate, while they were located in a public corridor of the Baghdad Central

GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

Correctional Facility, with other soldiers who photographed or watched the detainees' actions. Plea: Guilty. Finding: Guilty.

### SENTENCE

Sentence was adjudged on 21 October 2004. To be reduced to the grade of Private (E-1); to forfeit all pay and allowances; to be confined for ten years; and to be discharged with a dishonorable discharge.

### ACTION

Only so much of the sentence as provides for reduction to the grade of Private (E-1); forfeiture of all pay and allowances; confinement for ninety months and a dishonorable discharge is approved and, except for the part of the sentence extending to a dishonorable discharge, will be executed. The accused will be credited with 20 days of confinement against the sentence to confinement.

BY COMMAND OF LIEUTENANT GENERAL METZ:

#### DISTRIBUTION:

(b)(6)-2, (b)(7)(C) 2  
SSG Frederick (1)  
MJ, COL [REDACTED] (1)  
TC, CPT [REDACTED] (1)  
ATC, CPT [REDACTED] (1)  
DC, CPT [REDACTED] (1)  
CDC, Mr. [REDACTED] (1) (b)(6)-3; (b)(7)(C)-3  
Cdr, HHC, 16th MP Bde (ABN) (1)  
Cdr, III Corps and Fort Hood, ATTN: SJA (1)  
Cdr, 126th FSB, ATTN: FAO (1)  
Cdr, 18th PSB, ATTN: Records Section (1)  
Cdr, USAEREC, ATTN: PCRE-FS, Fort Benjamin Harrison, IN 46249 (1)  
Cdr, Battery A PCF PSB, Fort Sill, Oklahoma 73503-5100 (1)  
OSJA, HQ, U.S. Army Field Artillery Center & Fort Sill, Fort Sill, Oklahoma 73503-5100 (1)  
Clerk of Court, ATTN: JALS-CCR, 901 North Stuart Street, Suite 1200, Arlington, Virginia 22203-1837 (10)  
U.S. Army Criminal Investigations Lab, Fort Gillem, ATTN: CODIS Lab, 4553 North 2d Street, Bldg 213B, Forest Park, Georgia 30297-5122 (1)

[REDACTED]  
LTC, JA  
Chief, Criminal Law Division

DNA processing required. 10 U.S.C. § 1565.

DEPARTMENT OF THE ARMY  
Headquarters, III Corps and Fort Hood  
Fort Hood, Texas 76544-5001

GENERAL COURT-MARTIAL ORDER  
NUMBER

7 September 2005

29

(b)(6)-2; (b)(7)C-2

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

Specification: Was, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, from on or about 20 October 2003 to on or about 1 December 2003, derelict in the performance of his duties in that he willfully failed to protect detainees from abuse, cruelty and maltreatment, as it was his duty to do. Plea: Guilty. Finding: Guilty.

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

Specification 1: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by participating in and allowing the placing of wires on the detainee's hands while he stood on a Meals Ready to Eat box with his head covered and allowing the detainee to be told he would be electrocuted if he fell off of the box, and allowing the detainee to be photographed. Plea: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty. Finding: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty.

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GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

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Specification: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, wrongfully commit an indecent act with detainees, ~~\_\_\_\_\_~~ Corporal Charles A. Graner, Jr., Specialist Megan M. Ambuhl, and Private First Class Lynndie R. England, by observing a group of detainees masturbating, or attempting to masturbate, while they were located in a public corridor of the Baghdad Central

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DEPARTMENT OF THE ARMY  
Headquarters, III Corps and Fort Hood  
Fort Hood, Texas 76544-5001

GENERAL COURT-MARTIAL ORDER  
NUMBER

7 September 2005

<sup>29</sup> (b)(6)-2 (b)(7)(C)-2

Staff Sergeant Ivan L. Frederick II, [REDACTED] U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Fort Bragg, North Carolina 28307, was arraigned at Baghdad and Victory Base, Iraq on the following offenses at a general court-martial convened by the Commander, III Corps and the case was later transferred to the Commander, III Corps and Fort Hood upon redeployment from Iraq.

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

Specification 1: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by participating in and allowing the placing of wires on the detainee's hands while he stood on a Meals Ready to Eat box with his head covered and allowing the detainee to be told he would be electrocuted if he fell off of the box, and allowing the detainee to be photographed. Plea: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty. Finding: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty.

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Specification 3: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several detainees, persons subject to his orders, by ordering the detainees to strip, and then ordering the detainees to masturbate in front of the other detainees and soldiers, and then placing one in a position so that the detainee's face was directly in front of the genitals of another detainee to simulate fellatio and photographing the detainees during these acts. Plea: Guilty, excepting the words "and then placing one in a position so that the detainee's face was directly in front of the genitals of another detainee to simulate fellatio and photographing the detainees during these acts". To the excepted words: not guilty. Finding: Guilty, excepting the words "and then placing one in a position so that the detainee's face was directly in front of the genitals of another detainee to simulate fellatio and photographing the detainees during these acts". To the excepted words: not guilty.

Specification 4: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by posing for a photograph sitting on top of a detainee who was bound by padded material between two medical litters. Plea: Guilty. Finding: Guilty.

Specification 5: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat two detainees, persons subject too his orders,

GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

by grabbing the hands and arms of the said detainees and ordering them to strike or punch each other, with the detainees then striking or punching each other. Plea: Not Guilty. Finding: Not Guilty.

Charge IV: Article 128. Plea: Guilty. Finding: Guilty.

Specification 1: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, unlawfully strike several detainees by jumping on and impacting the bodies within a pile of said detainees with his shoulder or upper part of his body. Plea: Not Guilty. Finding: Not Guilty.

Specification 2: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, unlawfully stomp on the hands and bare feet of several detainees with his shod feet. Plea: Not Guilty. Finding: Not Guilty.

Specification 3: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, commit an assault upon a detainee by striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching the detainee with a closed fist in the center of the chest with enough force to cause the detainee to have difficulty breathing and require medical attention. Plea: Not guilty, but guilty of the lesser included offense of assault consummated by a battery, excepting the words "striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching with enough force to cause the detainee to have difficulty breathing and require medical attention" and substituting therefore the words "unlawfully striking a detainee in the chest with a closed fist." To the excepted words: not guilty. To the substituted words: guilty. Finding: Not guilty, but guilty of the lesser included offense of assault consummated by a battery, excepting the words "striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching with enough force to cause the detainee to have difficulty breathing and require medical attention" and substituting therefore the words "unlawfully striking a detainee in the chest with a closed fist." To the excepted words: not guilty. To the substituted words: guilty.

Charge V: Article 134. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, wrongfully commit an indecent act with detainees, ~~\_\_\_\_\_~~ Corporal Charles A. Graner, Jr., Specialist Megan M. Ambuhl, and Private First Class Lynndie R. England, by observing a group of detainees masturbating, or attempting to masturbate, while they were located in a public corridor of the Baghdad Central

GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

Correctional Facility, with other soldiers who photographed or watched the detainees' actions. Plea: Guilty. Finding: Guilty.

### SENTENCE

Sentence was adjudged on 21 October 2004. To be reduced to the grade of Private (E-1); to forfeit all pay and allowances; to be confined for ten years; and to be discharged with a dishonorable discharge.

### ACTION

Only so much of the sentence as provides for reduction to the grade of Private (E-1); forfeiture of all pay and allowances; confinement for ninety months and a dishonorable discharge is approved and, except for the part of the sentence extending to a dishonorable discharge, will be executed. The accused will be credited with 20 days of confinement against the sentence to confinement.

BY COMMAND OF LIEUTENANT GENERAL METZ:

#### DISTRIBUTION:

SSG Frederick (1)

MJ, COL [REDACTED] (1)

TC, CPT [REDACTED] (1)

ATC, CPT [REDACTED] (1)

DC, CPT [REDACTED] (1)

CDC, Mr. [REDACTED] (1) (b)(6)-3; (b)(7)(C) 3

Cdr, HHC, 16th MP Bde (ABN) (1)

Cdr, III Corps and Fort Hood, ATTN: SJA (1)

Cdr, 126th FSB, ATTN: FAO (1)

Cdr, 18th PSB, ATTN: Records Section (1)

Cdr, USAEREC, ATTN: PCRE-FS, Fort Benjamin Harrison, IN 46249 (1)

Cdr, Battery A PCF PSB, Fort Sill, Oklahoma 73503-5100 (1)

OSJA, HQ, U.S. Army Field Artillery Center & Fort Sill, Fort Sill, Oklahoma 73503-5100 (1)

Clerk of Court, ATTN: JALS-CCR, 901 North Stuart Street, Suite 1200, Arlington, Virginia 22203-1837 (10)

U.S. Army Criminal Investigations Lab, Fort Gillem, ATTN: CODIS Lab, 4553 North 2d Street, Bldg 213B, Forest Park, Georgia 30297-5122 (1)

(b)(6)-2; (b)(7)-C2  
[REDACTED]

LTC, JA  
Chief, Criminal Law Division

GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

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DC, CPT [REDACTED] (1)  
CDC, Mr. [REDACTED] (1) (b)(6)-2, (b)(7)(C)-2  
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Cdr, Battery A PCF PSB, Fort Sill, Oklahoma 73503-5100 (1)  
OSJA, HQ, U.S. Army Field Artillery Center & Fort Sill, Fort Sill, Oklahoma 73503-5100 (1)  
Clerk of Court, ATTN: JALS-CCR, 901 North Stuart Street, Suite 1200, Arlington, Virginia 22203-1837 (10)  
U.S. Army Criminal Investigations Lab, Fort Gillem, ATTN: CODIS Lab, 4553 North 2d Street, Bldg 213B, Forest Park, Georgia 30297-5122 (1) (b)(6)-3, (b)(7)(C)-3

[REDACTED]

LTC, JA  
Chief, Criminal Law Division

DNA processing required. 10 U.S.C. § 1565.

DEPARTMENT OF THE ARMY  
Headquarters, III Corps and Fort Hood  
Fort Hood, Texas 76544-5001

GENERAL COURT-MARTIAL ORDER  
NUMBER

7 September 2005

29 (b)(6)-2; (b)(7)(C)-2

Staff Sergeant Ivan L. Frederick II, [REDACTED], U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Fort Bragg, North Carolina 28307, was arraigned at Baghdad and Victory Base, Iraq on the following offenses at a general court-martial convened by the Commander, III Corps and the case was later transferred to the Commander, III Corps and Fort Hood upon redeployment from Iraq.

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

Specification 1: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 24 October 2003, conspire with Corporal Charles A. Graner, Jr. and Private First Class Lynndie R. England, to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy the said Staff Sergeant Frederick handcuffed three detainees together and directed the said Private First Class England to photograph the detainees. Plea: Not Guilty. Finding: Not Guilty.

Specification 2: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, conspire with Sergeant Java S. Davis, Corporal Charles A. Graner, Jr., Specialist Jeremy C. Sivits, Specialist Sabrina D. Harman, Specialist Megan M. Ambuhl, and Private First Class Lynndie R. England, to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy the said Staff Sergeant Frederick did place naked detainees in a human pyramid and photographed the pyramid of naked detainees. Plea: Guilty, excepting the words "did place naked detainees in a human pyramid and". To the excepted words: not guilty. Finding: Guilty, excepting the words "did place naked detainees in a human pyramid and". To the excepted words: not guilty.

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

Specification: Was, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, from on or about 20 October 2003 to on or about 1 December 2003, derelict in the performance of his duties in that he willfully failed to protect detainees from abuse, cruelty and maltreatment, as it was his duty to do. Plea: Guilty. Finding: Guilty.

018042

20041129

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

Specification 1: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by participating in and allowing the placing of wires on the detainee's hands while he stood on a Meals Ready to Eat box with his head covered and allowing the detainee to be told he would be electrocuted if he fell off of the box, and allowing the detainee to be photographed. Plea: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty. Finding: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty.

Specification 2: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several detainees, persons subject to his orders, by placing naked detainees in a human pyramid and photographing the pyramid of naked detainees. Plea: Guilty, excepting the words "placing naked detainees in a human pyramid and". To the excepted words: not guilty. Finding: Guilty, excepting the words "placing naked detainees in a human pyramid and". To the excepted words: not guilty.

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Specification 4: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by posing for a photograph sitting on top of a detainee who was bound by padded material between two medical litters. Plea: Guilty. Finding: Guilty.

Specification 5: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat two detainees, persons subject too his orders,

GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

by grabbing the hands and arms of the said detainees and ordering them to strike or punch each other, with the detainees then striking or punching each other. Plea: Not Guilty. Finding: Not Guilty.

Charge IV: Article 128. Plea: Guilty. Finding: Guilty.

Specification 1: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, unlawfully strike several detainees by jumping on and impacting the bodies within a pile of said detainees with his shoulder or upper part of his body. Plea: Not Guilty. Finding: Not Guilty.

Specification 2: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, unlawfully stomp on the hands and bare feet of several detainees with his shod feet. Plea: Not Guilty. Finding: Not Guilty.

Specification 3: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, commit an assault upon a detainee by striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching the detainee with a closed fist in the center of the chest with enough force to cause the detainee to have difficulty breathing and require medical attention. Plea: Not guilty, but guilty of the lesser included offense of assault consummated by a battery, excepting the words "striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching with enough force to cause the detainee to have difficulty breathing and require medical attention" and substituting therefore the words "unlawfully striking a detainee in the chest with a closed fist." To the excepted words: not guilty. To the substituted words: guilty. Finding: Not guilty, but guilty of the lesser included offense of assault consummated by a battery, excepting the words "striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching with enough force to cause the detainee to have difficulty breathing and require medical attention" and substituting therefore the words "unlawfully striking a detainee in the chest with a closed fist." To the excepted words: not guilty. To the substituted words: guilty.

Charge V: Article 134. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, wrongfully commit an indecent act with detainees, ~~\_\_\_\_\_~~ Corporal Charles A. Graner, Jr., Specialist Megan M. Ambuhl, and Private First Class Lynndie R. England, by observing a group of detainees masturbating, or attempting to masturbate, while they were located in a public corridor of the Baghdad Central

GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

Correctional Facility, with other soldiers who photographed or watched the detainees' actions. Plea: Guilty. Finding: Guilty.

### SENTENCE

Sentence was adjudged on 21 October 2004. To be reduced to the grade of Private (E-1); to forfeit all pay and allowances; to be confined for ten years; and to be discharged with a dishonorable discharge.

### ACTION

Only so much of the sentence as provides for reduction to the grade of Private (E-1); forfeiture of all pay and allowances; confinement for ninety months and a dishonorable discharge is approved and, except for the part of the sentence extending to a dishonorable discharge, will be executed. The accused will be credited with 20 days of confinement against the sentence to confinement.

BY COMMAND OF LIEUTENANT GENERAL METZ:

(b)(6)-2 (b)(7)(C)-2

#### DISTRIBUTION:

SSG Frederick (1)  
MJ, COL [REDACTED] (1)  
TC, CPT [REDACTED] (1)  
ATC, CPT [REDACTED] (1)  
DC, CPT [REDACTED] (1)  
CDC, Mr. [REDACTED] (1) (b)(6)-3; (b)(7)(C) 3  
Cdr, HHC, 16th MP Bde (ABN) (1)  
Cdr, III Corps and Fort Hood, ATTN: SJA (1)  
Cdr, 126th FSB, ATTN: FAO (1)  
Cdr, 18th PSB, ATTN: Records Section (1)  
Cdr, USAEREC, ATTN: PCRE-FS, Fort Benjamin Harrison, IN 46249 (1)  
Cdr, Battery A PCF PSB, Fort Sill, Oklahoma 73503-5100 (1)  
OSJA, HQ, U.S. Army Field Artillery Center & Fort Sill, Fort Sill, Oklahoma 73503-5100 (1)  
Clerk of Court, ATTN: JALS-CCR, 901 North Stuart Street, Suite 1200, Arlington, Virginia 22203-1837 (10)  
U.S. Army Criminal Investigations Lab, Fort Gillem, ATTN: CODIS Lab, 4553 North 2d Street, Bldg 213B, Forest Park, Georgia 30297-5122 (1)

[REDACTED]

LTC, JA  
Chief, Criminal Law Division

DNA processing required. 10 U.S.C. § 1565.

DEPARTMENT OF THE ARMY  
Headquarters, III Corps and Fort Hood  
Fort Hood, Texas 76544-5001

GENERAL COURT-MARTIAL ORDER  
NUMBER

7 September 2005

29  
(46)-2, (70)-2

Staff Sergeant Ivan L. Frederick II, [REDACTED] U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Fort Bragg, North Carolina 28307, was arraigned at Baghdad and Victory Base, Iraq on the following offenses at a general court-martial convened by the Commander, III Corps and the case was later transferred to the Commander, III Corps and Fort Hood upon redeployment from Iraq.

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Specification 2: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, conspire with Sergeant Javal S. Davis, Corporal Charles A. Graner, Jr., Specialist Jeremy C. Sivits, Specialist Sabrina D. Harman, Specialist Megan M. Ambuhl, and Private First Class Lynndie R. England, to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy the said Staff Sergeant Frederick did place naked detainees in a human pyramid and photographed the pyramid of naked detainees. Plea: Guilty, excepting the words "did place naked detainees in a human pyramid and". To the excepted words: not guilty. Finding: Guilty, excepting the words "did place naked detainees in a human pyramid and". To the excepted words: not guilty.

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Specification: Was, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, from on or about 20 October 2003 to on or about 1 December 2003, derelict in the performance of his duties in that he willfully failed to protect detainees from abuse, cruelty and maltreatment, as it was his duty to do. Plea: Guilty. Finding: Guilty.

018046

20041129

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

Specification 1: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by participating in and allowing the placing of wires on the detainee's hands while he stood on a Meals Ready to Eat box with his head covered and allowing the detainee to be told he would be electrocuted if he fell off of the box, and allowing the detainee to be photographed. Plea: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty. Finding: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty.

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GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

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GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

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ATC, CPT [REDACTED] (1)

DC, CPT [REDACTED] (1)

CDC, Mr. [REDACTED] (1) (b)(6)-3 ; (b)(7)(C)-3

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Cdr, III Corps and Fort Hood, ATTN: SJA (1)

Cdr, 126th FSB, ATTN: FAO (1)

Cdr, 18th PSB, ATTN: Records Section (1)

Cdr, USAEREC, ATTN: PCRE-FS, Fort Benjamin Harrison, IN 46249 (1)

Cdr, Battery A PCF PSB, Fort Sill, Oklahoma 73503-5100 (1)

OSJA, HQ, U.S. Army Field Artillery Center & Fort Sill, Fort Sill, Oklahoma 73503-5100 (1)

Clerk of Court, ATTN: JALS-CCR, 901 North Stuart Street, Suite 1200, Arlington, Virginia 22203-1837 (10)

U.S. Army Criminal Investigations Lab, Fort Gillem, ATTN: CODIS Lab, 4553 North 2d Street, Bldg 213B, Forest Park, Georgia 30297-5122 (1)

(b)(6)-2 ; (b)(7)(C)-2

[REDACTED]  
LTC, JA  
Chief, Criminal Law Division

DNA processing required. 10 U.S.C. § 1565.

DEPARTMENT OF THE ARMY  
Headquarters, III Corps and Fort Hood  
Fort Hood, Texas 76544-5001

GENERAL COURT-MARTIAL ORDER  
NUMBER

7 September 2005

29

(b)(6)(2-7C)-2

Staff Sergeant Ivan L. Frederick II, [REDACTED] U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Fort Bragg, North Carolina 28307, was arraigned at Baghdad and Victory Base, Iraq on the following offenses at a general court-martial convened by the Commander, III Corps and the case was later transferred to the Commander, III Corps and Fort Hood upon redeployment from Iraq.

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

Specification: Was, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, from on or about 20 October 2003 to on or about 1 December 2003, derelict in the performance of his duties in that he willfully failed to protect detainees from abuse, cruelty and maltreatment, as it was his duty to do. Plea: Guilty. Finding: Guilty.

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

Specification 1: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by participating in and allowing the placing of wires on the detainee's hands while he stood on a Meals Ready to Eat box with his head covered and allowing the detainee to be told he would be electrocuted if he fell off of the box, and allowing the detainee to be photographed. Plea: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty. Finding: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty.

Specification 2: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several detainees, persons subject to his orders, by placing naked detainees in a human pyramid and photographing the pyramid of naked detainees. Plea: Guilty, excepting the words "placing naked detainees in a human pyramid and". To the excepted words: not guilty. Finding: Guilty, excepting the words "placing naked detainees in a human pyramid and". To the excepted words: not guilty.

Specification 3: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several detainees, persons subject to his orders, by ordering the detainees to strip, and then ordering the detainees to masturbate in front of the other detainees and soldiers, and then placing one in a position so that the detainee's face was directly in front of the genitals of another detainee to simulate fellatio and photographing the detainees during these acts. Plea: Guilty, excepting the words "and then placing one in a position so that the detainee's face was directly in front of the genitals of another detainee to simulate fellatio and photographing the detainees during these acts". To the excepted words: not guilty. Finding: Guilty, excepting the words "and then placing one in a position so that the detainee's face was directly in front of the genitals of another detainee to simulate fellatio and photographing the detainees during these acts". To the excepted words: not guilty.

Specification 4: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by posing for a photograph sitting on top of a detainee who was bound by padded material between two medical litters. Plea: Guilty. Finding: Guilty.

Specification 5: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat two detainees, persons subject too his orders,

GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

by grabbing the hands and arms of the said detainees and ordering them to strike or punch each other, with the detainees then striking or punching each other. Plea: Not Guilty. Finding: Not Guilty.

Charge IV: Article 128. Plea: Guilty. Finding: Guilty.

Specification 1: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, unlawfully strike several detainees by jumping on and impacting the bodies within a pile of said detainees with his shoulder or upper part of his body. Plea: Not Guilty. Finding: Not Guilty.

Specification 2: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, unlawfully stomp on the hands and bare feet of several detainees with his shod feet. Plea: Not Guilty. Finding: Not Guilty.

Specification 3: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, commit an assault upon a detainee by striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching the detainee with a closed fist in the center of the chest with enough force to cause the detainee to have difficulty breathing and require medical attention. Plea: Not guilty, but guilty of the lesser included offense of assault consummated by a battery, excepting the words "striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching with enough force to cause the detainee to have difficulty breathing and require medical attention" and substituting therefore the words "unlawfully striking a detainee in the chest with a closed fist." To the excepted words: not guilty. To the substituted words: guilty. Finding: Not guilty, but guilty of the lesser included offense of assault consummated by a battery, excepting the words "striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching with enough force to cause the detainee to have difficulty breathing and require medical attention" and substituting therefore the words "unlawfully striking a detainee in the chest with a closed fist." To the excepted words: not guilty. To the substituted words: guilty.

Charge V: Article 134. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, wrongfully commit an indecent act with detainees, ~~\_\_\_\_\_~~ Corporal Charles A. Graner, Jr., Specialist Megan M. Ambuhl, and Private First Class Lynndie R. England, by observing a group of detainees masturbating, or attempting to masturbate, while they were located in a public corridor of the Baghdad Central

GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

Correctional Facility, with other soldiers who photographed or watched the detainees' actions. Plea: Guilty. Finding: Guilty.

### SENTENCE

Sentence was adjudged on 21 October 2004. To be reduced to the grade of Private (E-1); to forfeit all pay and allowances; to be confined for ten years; and to be discharged with a dishonorable discharge.

### ACTION

Only so much of the sentence as provides for reduction to the grade of Private (E-1); forfeiture of all pay and allowances; confinement for ninety months and a dishonorable discharge is approved and, except for the part of the sentence extending to a dishonorable discharge, will be executed. The accused will be credited with 20 days of confinement against the sentence to confinement.

BY COMMAND OF LIEUTENANT GENERAL METZ:

(b)(6)-2; (b)(7)(C)-2

#### DISTRIBUTION:

SSG Frederick (1)  
MJ, COL [REDACTED] (1)  
TC, CPT [REDACTED] (1)  
ATC, CPT [REDACTED] (1)  
DC, CPT [REDACTED] (1)  
CDC, Mr. [REDACTED] (1) (b)(6)-3, (b)(7)(C)-3  
Cdr, HHC, 16th MP Bde (ABN) (1)  
Cdr, III Corps and Fort Hood, ATTN: SJA (1)  
Cdr, 126th FSB, ATTN: FAO (1)  
Cdr, 18th PSB, ATTN: Records Section (1)  
Cdr, USAEREC, ATTN: PCRE-FS, Fort Benjamin Harrison, IN 46249 (1)  
Cdr, Battery A PCF PSB, Fort Sill, Oklahoma 73503-5100 (1)  
OSJA, HQ, U.S. Army Field Artillery Center & Fort Sill, Fort Sill, Oklahoma 73503-5100 (1)  
Clerk of Court, ATTN: JALS-CCR, 901 North Stuart Street, Suite 1200, Arlington, Virginia 22203-1837 (10)  
U.S. Army Criminal Investigations Lab, Fort Gillem, ATTN: CODIS Lab, 4553 North 2d Street, Bldg 213B, Forest Park, Georgia 30297-5122 (1)

[REDACTED]

LTC, JA  
Chief, Criminal Law Division

DNA processing required. 10 U.S.C. § 1565.

DEPARTMENT OF THE ARMY  
Headquarters, III Corps and Fort Hood  
Fort Hood, Texas 76544-5001

GENERAL COURT-MARTIAL ORDER  
NUMBER

7 September 2005

29 (b)(6)2-7(c)-2

Staff Sergeant Ivan L. Frederick II, [REDACTED] U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Fort Bragg, North Carolina 28307, was arraigned at Baghdad and Victory Base, Iraq on the following offenses at a general court-martial convened by the Commander, III Corps and the case was later transferred to the Commander, III Corps and Fort Hood upon redeployment from Iraq.

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

Specification 1: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 24 October 2003, conspire with Corporal Charles A. Graner, Jr. and Private First Class Lynndie R. England, to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy the said Staff Sergeant Frederick handcuffed three detainees together and directed the said Private First Class England to photograph the detainees. Plea: Not Guilty. Finding: Not Guilty.

Specification 2: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, conspire with Sergeant Javal S. Davis, Corporal Charles A. Graner, Jr., Specialist Jeremy C. Sivits, Specialist Sabrina D. Harman, Specialist Megan M. Ambuhl, and Private First Class Lynndie R. England, to commit an offense under the Uniform Code of Military Justice, to wit: maltreatment of subordinates, and in order to effect the object of the conspiracy the said Staff Sergeant Frederick did place naked detainees in a human pyramid and photographed the pyramid of naked detainees. Plea: Guilty, excepting the words "did place naked detainees in a human pyramid and". To the excepted words: not guilty. Finding: Guilty, excepting the words "did place naked detainees in a human pyramid and". To the excepted words: not guilty.

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

Specification: Was, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, from on or about 20 October 2003 to on or about 1 December 2003, derelict in the performance of his duties in that he willfully failed to protect detainees from abuse, cruelty and maltreatment, as it was his duty to do. Plea: Guilty. Finding: Guilty.

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

Specification 1: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by participating in and allowing the placing of wires on the detainee's hands while he stood on a Meals Ready to Eat box with his head covered and allowing the detainee to be told he would be electrocuted if he fell off of the box, and allowing the detainee to be photographed. Plea: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty. Finding: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty.

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Specification 4: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by posing for a photograph sitting on top of a detainee who was bound by padded material between two medical litters. Plea: Guilty. Finding: Guilty.

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GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

by grabbing the hands and arms of the said detainees and ordering them to strike or punch each other, with the detainees then striking or punching each other. Plea: Not Guilty. Finding: Not Guilty.

Charge IV: Article 128. Plea: Guilty. Finding: Guilty.

Specification 1: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, unlawfully strike several detainees by jumping on and impacting the bodies within a pile of said detainees with his shoulder or upper part of his body. Plea: Not Guilty. Finding: Not Guilty.

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GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

Correctional Facility, with other soldiers who photographed or watched the detainees' actions. Plea: Guilty. Finding: Guilty.

### SENTENCE

Sentence was adjudged on 21 October 2004. To be reduced to the grade of Private (E-1); to forfeit all pay and allowances; to be confined for ten years; and to be discharged with a dishonorable discharge.

### ACTION

Only so much of the sentence as provides for reduction to the grade of Private (E-1); forfeiture of all pay and allowances; confinement for ninety months and a dishonorable discharge is approved and, except for the part of the sentence extending to a dishonorable discharge, will be executed. The accused will be credited with 20 days of confinement against the sentence to confinement.

BY COMMAND OF LIEUTENANT GENERAL METZ:

#### DISTRIBUTION:

(b)(6)-2; (b)(7)(C)-2

SSG Frederick (1)  
MJ, COL [REDACTED] (1)  
TC, CPT [REDACTED] (1)  
ATC, CPT [REDACTED] (1)  
DC, CPT [REDACTED] (1)  
CDC, Mr. [REDACTED] (1) (b)(6)-3; (b)(7)(C)-3

[REDACTED]  
LTC, JA  
Chief, Criminal Law Division

Cdr, HHC, 16th MP Bde (ABN) (1)  
Cdr, III Corps and Fort Hood, ATTN: SJA (1)  
Cdr, 126th FSB, ATTN: FAO (1)  
Cdr, 18th PSB, ATTN: Records Section (1)  
Cdr, USAEREC, ATTN: PCRE-FS, Fort Benjamin Harrison, IN 46249 (1)  
Cdr, Battery A PCF PSB, Fort Sill, Oklahoma 73503-5100 (1)  
OSJA, HQ, U.S. Army Field Artillery Center & Fort Sill, Fort Sill, Oklahoma 73503-5100 (1)  
Clerk of Court, ATTN: JALS-CCR, 901 North Stuart Street, Suite 1200, Arlington, Virginia 22203-1837 (10)  
U.S. Army Criminal Investigations Lab, Fort Gillem, ATTN: CODIS Lab, 4553 North 2d Street, Bldg 213B, Forest Park, Georgia 30297-5122 (1)

DNA processing required. 10 U.S.C. § 1565.

DEPARTMENT OF THE ARMY  
Headquarters, III Corps and Fort Hood  
Fort Hood, Texas 76544-5001

GENERAL COURT-MARTIAL ORDER  
NUMBER

29

(b)(6)2;(7)(C)-2

7 September 2005

Staff Sergeant Ivan L. Frederick II, [REDACTED], U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Fort Bragg, North Carolina 28307, was arraigned at Baghdad and Victory Base, Iraq on the following offenses at a general court-martial convened by the Commander, III Corps and the case was later transferred to the Commander, III Corps and Fort Hood upon redeployment from Iraq.

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Specification: Was, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, from on or about 20 October 2003 to on or about 1 December 2003, derelict in the performance of his duties in that he willfully failed to protect detainees from abuse, cruelty and maltreatment, as it was his duty to do. Plea: Guilty. Finding: Guilty.

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

Specification 1: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by participating in and allowing the placing of wires on the detainee's hands while he stood on a Meals Ready to Eat box with his head covered and allowing the detainee to be told he would be electrocuted if he fell off of the box, and allowing the detainee to be photographed. Plea: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty. Finding: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty.

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GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

by grabbing the hands and arms of the said detainees and ordering them to strike or punch each other, with the detainees then striking or punching each other. Plea: Not Guilty. Finding: Not Guilty.

Charge IV: Article 128. Plea: Guilty. Finding: Guilty.

Specification 1: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, unlawfully strike several detainees by jumping on and impacting the bodies within a pile of said detainees with his shoulder or upper part of his body. Plea: Not Guilty. Finding: Not Guilty.

Specification 2: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, unlawfully stomp on the hands and bare feet of several detainees with his shod feet. Plea: Not Guilty. Finding: Not Guilty.

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GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

Correctional Facility, with other soldiers who photographed or watched the detainees' actions. Plea: Guilty. Finding: Guilty.

### SENTENCE

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### ACTION

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BY COMMAND OF LIEUTENANT GENERAL METZ:

#### DISTRIBUTION:

(b)(6)-2, (b)(7)(C)-2 ← [REDACTED]  
SSG Frederick (1)  
M/J, COL [REDACTED] (1) LTC, JA  
TC, CPT [REDACTED] (1) Chief, Criminal Law Division  
ATC, CPT [REDACTED] (1)  
DC, CPT [REDACTED] (1)  
CDC, Mr. [REDACTED] (1) (b)(6)-3, (b)(7)(C)-3  
Cdr, HHC, 16th MP Bde (ABN) (1)  
Cdr, III Corps and Fort Hood, ATTN: SJA (1)  
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Cdr, 18th PSB, ATTN: Records Section (1)  
Cdr, USAEREC, ATTN: PCRE-FS, Fort Benjamin Harrison, IN 46249 (1)  
Cdr, Battery A PCF PSB, Fort Sill, Oklahoma 73503-5100 (1)  
OSJA, HQ, U.S. Army Field Artillery Center & Fort Sill, Fort Sill, Oklahoma  
73503-5100 (1)  
Clerk of Court, ATTN: JALS-CCR, 901 North Stuart Street, Suite 1200, Arlington,  
Virginia 22203-1837 (10)  
U.S. Army Criminal Investigations Lab, Fort Gillem, ATTN: CODIS Lab, 4553 North  
2d Street, Bldg 213B, Forest Park, Georgia 30297-5122 (1)

DNA processing required. 10 U.S.C. § 1565.

DEPARTMENT OF THE ARMY  
Headquarters, III Corps and Fort Hood  
Fort Hood, Texas 76544-5001

GENERAL COURT-MARTIAL ORDER  
NUMBER 29

(b)(6)-2, (7)(C)-2

7 September 2005

Staff Sergeant Ivan L. Frederick II, [REDACTED] U.S. Army, Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Fort Bragg, North Carolina 28307, was arraigned at Baghdad and Victory Base, Iraq on the following offenses at a general court-martial convened by the Commander, III Corps and the case was later transferred to the Commander, III Corps and Fort Hood upon redeployment from Iraq.

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

Specification 1: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by participating in and allowing the placing of wires on the detainee's hands while he stood on a Meals Ready to Eat box with his head covered and allowing the detainee to be told he would be electrocuted if he fell off of the box, and allowing the detainee to be photographed. Plea: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty. Finding: Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty.

Specification 2: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several detainees, persons subject to his orders, by placing naked detainees in a human pyramid and photographing the pyramid of naked detainees. Plea: Guilty, excepting the words "placing naked detainees in a human pyramid and". To the excepted words: not guilty. Finding: Guilty, excepting the words "placing naked detainees in a human pyramid and". To the excepted words: not guilty.

Specification 3: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, did maltreat several detainees, persons subject to his orders, by ordering the detainees to strip, and then ordering the detainees to masturbate in front of the other detainees and soldiers, and then placing one in a position so that the detainee's face was directly in front of the genitals of another detainee to simulate fellatio and photographing the detainees during these acts. Plea: Guilty, excepting the words "and then placing one in a position so that the detainee's face was directly in front of the genitals of another detainee to simulate fellatio and photographing the detainees during these acts". To the excepted words: not guilty. Finding: Guilty, excepting the words "and then placing one in a position so that the detainee's face was directly in front of the genitals of another detainee to simulate fellatio and photographing the detainees during these acts". To the excepted words: not guilty.

Specification 4: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat a detainee, a person subject to his orders, by posing for a photograph sitting on top of a detainee who was bound by padded material between two medical litters. Plea: Guilty. Finding: Guilty.

Specification 5: At or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003 did maltreat two detainees, persons subject too his orders,

GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

by grabbing the hands and arms of the said detainees and ordering them to strike or punch each other, with the detainees then striking or punching each other. Plea: Not Guilty. Finding: Not Guilty.

Charge IV: Article 128. Plea: Guilty. Finding: Guilty.

Specification 1: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, unlawfully strike several detainees by jumping on and impacting the bodies within a pile of said detainees with his shoulder or upper part of his body. Plea: Not Guilty. Finding: Not Guilty.

Specification 2: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, unlawfully stomp on the hands and bare feet of several detainees with his shod feet. Plea: Not Guilty. Finding: Not Guilty.

Specification 3: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, commit an assault upon a detainee by striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching the detainee with a closed fist in the center of the chest with enough force to cause the detainee to have difficulty breathing and require medical attention. Plea: Not guilty, but guilty of the lesser included offense of assault consummated by a battery, excepting the words "striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching with enough force to cause the detainee to have difficulty breathing and require medical attention" and substituting therefore the words "unlawfully striking a detainee in the chest with a closed fist." To the excepted words: not guilty. To the substituted words: guilty. Finding: Not guilty, but guilty of the lesser included offense of assault consummated by a battery, excepting the words "striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching with enough force to cause the detainee to have difficulty breathing and require medical attention" and substituting therefore the words "unlawfully striking a detainee in the chest with a closed fist." To the excepted words: not guilty. To the substituted words: guilty.

Charge V: Article 134. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Baghdad Central Correctional Facility, Abu Ghraib, Iraq, on or about 8 November 2003, wrongfully commit an indecent act with detainees, ~~including~~ Corporal Charles A. Graner, Jr., Specialist Megan M. Ambuhl, and Private First Class Lynndie R. England, by observing a group of detainees masturbating, or attempting to masturbate, while they were located in a public corridor of the Baghdad Central

GCMO No. 29, DA, Headquarters, III Corps and Fort Hood, Fort Hood, Texas 76544-5001 dated 7 September 2005 (continued)

Correctional Facility, with other soldiers who photographed or watched the detainees' actions. Plea: Guilty. Finding: Guilty.

SENTENCE

Sentence was adjudged on 21 October 2004. To be reduced to the grade of Private (E-1); to forfeit all pay and allowances; to be confined for ten years; and to be discharged with a dishonorable discharge.

ACTION

Only so much of the sentence as provides for reduction to the grade of Private (E-1); forfeiture of all pay and allowances; confinement for ninety months and a dishonorable discharge is approved and, except for the part of the sentence extending to a dishonorable discharge, will be executed. The accused will be credited with 20 days of confinement against the sentence to confinement.

BY COMMAND OF LIEUTENANT GENERAL METZ:

DISTRIBUTION:

- SSG Frederick (1)
- MJ, COL [REDACTED] (1)
- TC, CPT [REDACTED] (1)
- ATC, CPT [REDACTED] (1)
- DC, CPT [REDACTED] (1)
- CDC, Mr. [REDACTED] (1) (b)(6)-3; (b)(7)C-3
- Cdr, HHC, 16th MP Bde (ABN) (1)
- Cdr, III Corps and Fort Hood, ATTN: SJA (1)
- Cdr, 126th FSB, ATTN: FAO (1)
- Cdr, 18th PSB, ATTN: Records Section (1)
- Cdr, USAEREC, ATTN: PCRE-FS, Fort Benjamin Harrison, IN 46249 (1)
- Cdr, Battery A PCF PSB, Fort Sill, Oklahoma 73503-5100 (1)
- OSJA, HQ, U.S. Army Field Artillery Center & Fort Sill, Fort Sill, Oklahoma 73503-5100 (1)
- Clerk of Court, ATTN: JALS-CCR, 901 North Stuart Street, Suite 1200, Arlington, Virginia 22203-1837 (10)
- U.S. Army Criminal Investigations Lab, Fort Gillem, ATTN: CODIS Lab, 4553 North 2d Street, Bldg 213B, Forest Park, Georgia 30297-5122 (1)

DEPARTMENT OF THE ARMY  
Headquarters, III Corps and Fort Hood  
Fort Hood, Texas 76544-5001

AFZF-CG

07 SEP 2005

MEMORANDUM THRU

Commander, 16th Military Police Brigade (Airborne), Fort Bragg, North Carolina 28307  
Commander, Headquarters and Headquarters Company, 16th Military Police Brigade  
(Airborne), Fort Bragg, North Carolina 28307 (b)(6) Z; (7)(c) 2

FOR Staff Sergeant Ivan Frederick II, [REDACTED] U.S. Army, Headquarters and  
Headquarters Company, 16th Military Police Brigade (Airborne), Fort Bragg, North  
Carolina 28307

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

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



THOMAS F. METZ  
Lieutenant General, USA  
Commanding

Encls

1. SJA Addendum
2. SJA PTR
3. Defense Counsel Submission  
w/enclosure
  - a. Statement from Trial  
Counsel dated 14 Jul 05, 1 pg
  - b. Transcript of Interview of LTG Metz,  
dated 25 August 2004, 55 pages,  
incorporated by reference in Defense  
Counsel's 1105 submission

018066

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07 SEP 2005

MEMORANDUM FOR Commander, III Corps and Fort Hood, Fort Hood, Texas 76544-5001

SUBJECT: Addendum to Post-Trial Recommendation of the Staff Judge Advocate – United States v. Staff Sergeant Ivan Frederick II (b)(6)2, (b)(7)(C)2 [redacted] Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Fort Bragg, North Carolina 28307 - ACTION MEMORANDUM

1. Purpose. To forward a petition for clemency submitted by Staff Sergeant Ivan Frederick II, under the provisions of Rules for Courts-Martial (RCM) 1105 and 1106, through his defense counsel. The matters submitted by Staff Sergeant Frederick, through his defense counsel, are enclosed. Pursuant to RCM 1107, you must consider the defense submission prior to taking action.

(b)(6)-2; (b)(7)(C)-2

2. Discussion. On 2 June 2005, Colonel [redacted], in his capacity as the III Corps and Fort Hood Staff Judge Advocate, signed the post-trial recommendation in this case and directed that document be served on Staff Sergeant Frederick's defense counsel for comment.

3. Allegations of Legal Error. SSG Frederick's counsels' submission alleged legal error. Specifically, Defense Counsel have alleged as error the failure of the Convening Authority to move the trial out of Iraq; the denial by the Military Judge of the defense motion to move the trial from Iraq, which resulted in the denial of live witnesses on behalf of SSG Frederick and denial of SSG Frederick's right to a fair trial; and that the sentence imposed by the Military Judge was facially excessive. The defense submission may also be read to raise legal error when counsel for the Accused imply that the Military Judge was subject to political pressure resulting in a more severe sentence for the Accused. I disagree with all of the allegations of legal error. No corrective action is required.

4. Clemency Request. SSG Frederick's defense counsel has requested that you reduce the confinement portion of SSG Frederick's sentence by four years.

5. Recommendation. In accordance with RCM 1106, I have carefully considered the enclosed matters. In my opinion, clemency is not warranted. Accordingly, I now specifically adopt as my own the post-trial recommendation of the prior III Corps and Fort Hood Staff Judge Advocate, Colonel [redacted] and recommend that you approve only so much of the sentence as provides for reduction to the grade of Private (E-1); forfeiture of all pay and allowances; confinement for eight years; and a dishonorable discharge and, except for the part of the sentence extending to a dishonorable discharge, order the sentence executed. The accused should be credited with 20 days of confinement against the sentence to confinement. An action to accomplish this is enclosed.

(b)(6)-2;  
(b)(7)(C)-2

[redacted signature block]

(b)(6) -2; (b)(7)(C) -2

Encls  
SJA PTR  
Defense Counsel Submission

COL, JA  
Staff Judge Advocate

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AFZF-JA-MJ

(b)(6)(7)(D)2  
SUBJECT: Addendum to Post-Trial Recommendation of the Staff Judge Advocate – United States v. Staff Sergeant Ivan Frederick II, [REDACTED] Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), Fort Bragg, North Carolina 28307 - ACTION MEMORANDUM

w/enclosure

- a. Statement from Trial Counsel dated 14 Jul 05, 1 pg
- b. Transcript of Interview of LTG Metz, dated 25 August 2004, 55 pages, incorporated by reference in Defense Counsels' 1105 submission

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2 JUN 2005

MEMORANDUM FOR Commander, III Corps, Fort Hood, Texas 76544-5001

SUBJECT: Post-Trial Recommendation in the Court-Martial of the United States v. Staff Sergeant Ivan L. Frederick II, (b)(6) 2-7(c)-2 ██████████ Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq – ACTION MEMORANDUM

1. Purpose. To obtain initial action in the general court-martial of the United States v. Staff Sergeant Ivan L. Frederick II.

2. Recommendation. Approve only so much of the sentence as provides for reduction to the grade of Private (E-1); forfeiture of all pay and allowances; confinement for eight years; and a dishonorable discharge and, except for the part of the sentence extending to a dishonorable discharge, order the sentence executed. The accused should be credited with 20 days confinement credit against the sentence to confinement.

3. Discussion. Pursuant to RCM 1104(e) and 1106, the record of trial in the United States v. Staff Sergeant Ivan L. Frederick II has been referred to me for my recommendation prior to your action. Forwarded herewith is a copy of the court-martial record of trial.

a. Trial: On 19 May 2004; 21-22 June 2004; 24 August 2004; and 20-21 October 2004, the accused was tried by a general court-martial.

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

<u>CHARGE</u>	<u>ART UCMJ</u>	<u>SPEC</u>	<u>GIST OF OFFENSE</u>	<u>PLEA</u>	<u>FINDING</u>
I	81	1	On or about 24 Oct 03, conspire with CPL Charles Graner, Jr. and PFC Lynndie England, to commit an offense under the UCMJ, to wit: maltreatment of subordinates, by handcuffing three detainees together and ordering PFC Lynndie England to photograph the detainees.	NG	NG

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AFZF-JA-MJ

(b)(6)-7(c)-2

SUBJECT: Post-Trial Recommendation in the Court-Martial of the United States v. Staff Sergeant Ivan L. Frederick II, [REDACTED] Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq -- ACTION MEMORANDUM

<u>CHARGE</u>	<u>ART UCMJ</u>	<u>SPEC</u>	<u>GIST OF OFFENSE</u>	<u>PLEA</u>	<u>FINDING</u>
		2	On or about 08 Nov 03, conspire with SGT Javal Davis, CPL Charles Graner, Jr., SPC Jeremy Sivits, SPC Sabrina Harman, SPC Megan Ambuhl, and PFC Lynndie England, to commit an offense under the UCMJ, to wit: maltreatment of subordinates, by placing naked detainees in a human pyramid and photographing the pyramid of naked detainees.	G <sup>1</sup>	G <sup>1</sup>
II	92	The	On or about 20 Oct 03 to on or about 01 Dec 03, was derelict in the performance of his duties in that he willfully failed to protect detainees from abuse, cruelty and maltreatment, as it was his duty to do.	G	G
III	93	1	On or about 08 Nov 03, did maltreat a detainee, a person subject to his orders, by participating in and allowing the placing of wires on the detainee's hands while he stood on a Meals Ready to Eat box with his head covered; allowing the detainee to be told he would be electrocuted if he fell off of the box; and allowing the detainee to be photographed.	G <sup>2</sup>	G <sup>2</sup>

1. Guilty, excepting the words "did place naked detainees in a human pyramid and". To the excepted words: not guilty.

2. Guilty, excepting the words "be told" and substituting the word "believe". To the excepted words: not guilty. To the substituted word: guilty.

AFZF-JA-MJ

(b)(6)2-7(c)-2

SUBJECT: Post-Trial Recommendation in the Court-Martial of the United States v. Staff Sergeant Ivan L. Frederick II, [REDACTED], Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq --  
ACTION MEMORANDUM

<u>CHARGE</u>	<u>ART UCMJ</u>	<u>SPEC</u>	<u>GIST OF OFFENSE</u>	<u>PLEA</u>	<u>FINDING</u>
		2	On or about 08 Nov 03, did maltreat several detainees, persons subject to his orders, by placing naked detainees in a human pyramid and photographing the pyramid of naked detainees.	G <sup>3</sup>	G <sup>3</sup>
		3	On or about 08 Nov 03, did maltreat several detainees, persons subject to his orders, by ordering the detainees to undress, and then ordering the detainees to masturbate in front of other detainees and soldiers; placing one detainee in a position so the detainee's face was directly in front of the genitals of another detainee to simulate fellatio and photographing the detainees during these acts.	G <sup>4</sup>	G <sup>4</sup>
		4	On or about 08 Nov 03, did maltreat a detainee, a person subject to his orders, by posing for a photograph sitting on top of a detainee who was bound by padded material between two medical litters.	G	G

<sup>3</sup>. Guilty, excepting the words "placing naked detainees in a human pyramid and". To the excepting words: not guilty.

<sup>4</sup>. Guilty, excepting the words "and then placing one in a position so that the detainee's face was directly in front of the genitals of another detainee to simulate fellatio and photographing the detainees during these acts". To the excepted words: not guilty.

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AFZF-JA-MJ

(b)(6) 2-7(c)-2

SUBJECT: Post-Trial Recommendation in the Court-Martial of the United States v. Staff Sergeant Ivan L. Frederick II, [REDACTED], Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq --  
ACTION MEMORANDUM

<u>CHARGE</u>	<u>ART</u> <u>UCMJ</u>	<u>SPEC</u>	<u>GIST OF OFFENSE</u>	<u>PLEA</u>	<u>FINDING</u>
		5	On or about 08 Nov 03, did maltreat two detainees, persons subject to his orders, by grabbing the hands and arms of said detainees and ordering them to strike or punch each other, with the detainees then striking or punching each other.	NG	NG
IV	128	1	On or about 08 Nov 03, unlawfully strike several detainees by jumping on and impacting the bodies within a pile of said detainees with his shoulder or upper part of his body.	NG	NG
		2	On or about 08 Nov 03, unlawfully stomp on the hands and bare feet of several detainees with his shod feet.	NG	NG
		3	On or about 08 Nov 03, commit an assault upon a detainee by striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching the detainee with a closed fist in the center of the chest with enough force to cause the detainee to have difficulty breathing and require medical attention.	NG <sup>5</sup>	NG <sup>5</sup>

<sup>5</sup>. Not guilty, but guilty of the lesser included offense of assault consummated by a battery, excepting the words "striking him with a means or force likely to produce death or grievous bodily harm, to wit: by punching with enough force to cause the detainee to have difficulty breathing and require medical attention" and substituting therefore the words "unlawfully striking a detainee in the chest with a closed fist." To the excepted words: not guilty. To the substituted words: guilty.

(b)(6)2-70-2

AFZF-JA-MJ

SUBJECT: Post-Trial Recommendation in the Court-Martial of the United States v. Staff Sergeant Ivan L. Frederick II, [REDACTED] Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq -- ACTION MEMORANDUM

<u>CHARGE</u>	<u>ART UCMJ</u>	<u>SPEC</u>	<u>GIST OF OFFENSE</u>	<u>PLEA</u>	<u>FINDING</u>
V	134	The	On or about 08 Nov 03, wrongfully commit an indecent act with detainees, CPL Charles Graner, Jr., SPC Megan Ambuhl, and PFC Lynndie England, by observing a group of detainees masturbating, or attempting to masturbate, while they were located in a public corridor of the Baghdad Central Confinement Facility, with other soldiers who photographed or watched the detainees' actions.	G	G

c. **Sentence Adjudged:** To be reduced to the grade of Private (E-1); to forfeit all pay and allowances; to be confined for ten years; and to be discharged from the service with a dishonorable discharge.

d. **Pretrial Confinement/Pretrial Punishment:** 20 days credit for an alleged violation of Article 13, UCMJ. The exact nature of the alleged violation is not set forth in the Record of Trial. See pages 251-254 of the Record of Trial for discussion for Article 13 credit.

e. **Pretrial Agreement:** The convening authority will disapprove any confinement in excess of eight years.

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

(1) *Date and Term of Current Service:* 28 August 2001 (36 months); ETS: 27 August 2004.

(2) *Date of Birth:* 3 October 1966.

(3) *Awards and Decorations:* ARCOM (2); AAM (3); ARCAM (4); AFRM; AFRM (with M device); ARCOTR (2); ASR; NDSM (2); NCOPD; GWTSM; GWTEM.

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

AFZF-JA-MJ

(b)(6)2-7(c)(2)

SUBJECT: Post-Trial Recommendation in the Court-Martial of the United States v. Staff Sergeant Ivan L. Frederick II, [REDACTED], Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), III Corps, Victory Base, Iraq --  
ACTION MEMORANDUM

(5) *Dependents*: 1 adult and 2 children.

(6) *GT Score*: 107.

(7) *MOS*: 31B (Military Police)

(8) *BASD*: 17 February 1984.

(9) *PEBD*: 17 February 1984.

(10) Additional information concerning the character of the accused's service is located in the Record of Trial (Tab 1).

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

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

4. Point of contact for this action is the undersigned at 287-3421.

[REDACTED]

(b)(6)-2; (b)(6)(c)-2

COL, JA  
Staff Judge Advocate

018074



REPLY TO  
ATTENTION OF:

**DEPARTMENT OF THE ARMY  
UNITED STATES ARMY TRIAL DEFENSE SERVICE, REGION V  
ALASKA FIELD OFFICE  
FORT WAINWRIGHT, ALASKA 99703**

APVR-WJA-TDS

23 August 2005

MEMORANDUM FOR Commander III Corps, Fort Hood, Texas 76544

SUBJECT: Request for Clemency in the Matter of United States v. SSG Ivan Frederick

1. Pursuant to R.C.M. 1105, SSG Ivan Frederick respectfully requests you reduce his sentence to 4 years confinement.

**History of the Case and Statement of Facts**

2. Charges and specifications involving maltreatment of prisoners at Abu Ghraib prison, Iraq, were brought against SSG Frederick in the spring of 2004. An Article 32 investigating officer recommended trial by general court-martial in May 2004. There were multiple defendants and the circumstance gained world wide notoriety.

3. In August 2004 SSG Frederick in a public statement accepted responsibility for his conduct and urged others to do so. He was the first of the charged defendants to accept responsibility. His acceptance of responsibility was unequivocal and was widely reported.

4. Counsel for SSG Frederick sought to move the trial out of Iraq in order to assure the attendance of critical civilian witnesses. A motion was filed with the military judge to achieve that end. The convening authority in an interview with all defense counsel in August 2004 asserted unequivocally that all trials must be held in Iraq and that he would not support a change of venue (the transcript of that interview is incorporated by reference herein). The military judge denied SSG Frederick's motion to change the location of the trial on 24 August 2004.

5. SSG Frederick pled guilty on 20 October 2004 to charges involving prisoner maltreatment and others. The military judge, pursuant to the pretrial agreement, sentenced SSG Frederick to eight years of confinement at hard labor and a dishonorable discharge. SSG Frederick is currently serving that sentence at the Disciplinary Barracks, Fort Leavenworth.

6. Immediately after the presidential elections in November 2004 the convening authority without application by any defendant and without any explanation moved the remaining courts-martial out of Iraq to Fort Hood, Texas.

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APVR-WJA-TDS

SUBJECT: Request for Clemency in the Matter of United States v. SSG Ivan Frederick**Bases for Clemency**

7. Since his guilty plea SSG Frederick has provided significant information to the government regarding the conduct of other soldiers and has testified at multiple trials and an Article 32 proceeding for the government. Specifically SSG Frederick has:

a. Provided a 139 page sworn statement regarding activities at Abu Ghraib, none of which has proven to be inaccurate.

b. Has identified misconduct by a CID agent and passed a polygraph to confirm the truthfulness of his representations regarding that CID agent.

c. Has testified for the government at the Article 32 Proceeding of SGT [REDACTED] a dog handler who has been charged with maltreatment. (b)(6)-5  
(b)(7)(C)-5

d. Has testified for the government at the general court-martial, U.S. v. Grainer, where his testimony was instrumental in gaining a conviction.

e. Has testified for the government at the special court-martial of, U.S. v. Harmon, where his testimony was instrumental in gaining a conviction.

f. Has cooperated in any fashion that he has been asked by the government to further the interests of the government's prosecution.

(b)(6)-2; (b)(7)(C)-2

7. THE TRIAL COUNSEL, MAJOR [REDACTED] AND CPT [REDACTED] WHO HAVE BEEN PROSECUTORS IN ALL THE ABU GHRAIB TRIALS HAVE CONFIRMED BY ATTACHED MEMORANDUM THE VALUE THAT SSG FREDERICK HAS PROVIDED TO THE GOVERNMENT. THIS DOCUMENT IS AN EXTRAORDINARY AFFIRMATION THAT CLEMENCY IS APPROPRIATE IN THIS CASE.

8. Beyond the above there is this:

a. Psychological testing done by an Army psychologist at Landstuhl, Germany, revealed that SSG Frederick had no psychological pathology. This was testified to at his guilty plea by the psychologist. This demonstrated that SSG Frederick was not, as some had characterized him, a sadist or morally bankrupt. His entire history confirmed that diagnosis. He had over 18 years of service with no disciplinary actions. His civilian job as a prison guard showed only favorable ratings with no indication of untoward conduct. This too was testified to at the guilty plea.

(b)(6)-4, (b)(7)(C)-4

b. [REDACTED] the world's foremost authority on prison abuse, testified at the guilty plea that persons who are placed in control of prisoners without strong supervision devolve into misconduct of the kind evidenced by SSG Frederick. The Army utilizes [REDACTED] work

APVR-WJA-TDS

SUBJECT: Request for Clemency in the Matter of United States v. SSG Ivan Frederick

to train soldiers to this day. It was clearly demonstrated that leadership was absent at Abu Ghraib during this period of time.

c. SSG Frederick was a well liked, respected and contributing member of society as is demonstrated by the character testimony and written submissions at his guilty plea. This conduct for which he pleaded guilty was a total aberration from SSG Frederick's normative behavior. He accepted responsibility for the conduct and has followed a path of redemption since that acceptance.

**Conclusion**

9. SSG Frederick faced a maximum sentence of 11 years of confinement at hard labor based upon the pretrial agreement that was entered in with the government. The military judge sentenced SSG Frederick 10 years. The pretrial agreement limited confinement to 8 years. At the time it was difficult to separate the political implications of the case from the legitimate ends of the criminal justice system. I believe the military judge was unable to compartmentalize the two competing interests. I believe the sentence was facially excessive. I further believe that the failure to move the Frederick trial out of Iraq and the convening authority's unwillingness to do so was legal error and dramatically prejudiced the right to a fair trial by denying SSG Frederick live witnesses. By moving the subsequent trials to Fort Hood a mere two months after declaring that they would not be moved and after the presidential elections suggests the politicization of the process.

10. SSG Frederick has atoned for his transgressions at least in part by providing full cooperation to the government in every particular and he will continue to do so.

11. It is appropriate, I believe, to reduce his confinement at hard labor to four years under the totality of the above described circumstances.

(b)(6) - 4  
(b)(7)C - 4  
  
Defense Counsel

(b)(6) - 2  
(b)(7)(C) - 2  
  
CPT, JA  
Defense Counsel



DEPARTMENT OF THE ARMY  
 UNITED STATES ARMY LEGAL SERVICES AGENCY  
 901 NORTH STUART STREET  
 ARLINGTON, VA 22203-1837

REPLY TO  
 ATTENTION OF

JALS-TCAP

July 14, 2005

MEMORANDUM THRU Staff Judge Advocate, III Corps and Fort Hood, Fort Hood, Texas 76544-5008

FOR Commander, III Corps and Fort Hood, Fort Hood, Texas 76544-5008

SUBJECT: Clemency Considerations for Private Ivan L. Frederick II

1. The undersigned were the Trial Counsel for the courts-martial arising out of the incidents of detainee abuse at the Baghdad Central Confinement Facility (BCCF), Abu Ghraib, Iraq during the fall of 2003. Specifically, we were the trial counsel who prosecuted Private (PVT) Frederick during his court-martial.

2. When weighing whether the accused should receive clemency, please consider the following facts concerning PVT Frederick:

a. PVT Frederick, exhibiting a good deal of remorse, came to the Trial Counsel office last summer on Victory Base, Iraq and stated that it was his intention to plead guilty; thus, initiating plea negotiations with his counsel;

b. PVT Frederick has been very cooperative in his dealings with CID and military police investigators providing numerous statements, including an initial 139 page statement, detailing various acts of wrongdoing at Abu Ghraib. This information has greatly assisted the ongoing investigation of misconduct which occurred at the BCCF in 2003;

c. PVT Frederick has been very cooperative and forthcoming in his dealings with the Trial Counsel as they prepared a number of the cases against his fellow co-accused; and

d. PVT Frederick has provided important testimony on the merits case in U.S. v. Corporal Charles Graner and U.S. v. Specialist Sabrina Harman.

3. The point of contact for this memorandum is Captain [REDACTED]

at [REDACTED]

(b)(6)-2; (b)(7)(C)-2

MAJ, JA  
 Trial Counsel

CPT, JA  
 Trial Counsel

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20041129

1 [The following contains a verbatim transcript of the interview of LTG  
2 Metz conducted at 1230, 25 August 2004 in Mannheim, Germany, via  
3 video teleconference. SFC [REDACTED], court reporter, was  
4 detailed to the interview.]

5 Captain [REDACTED] (b)(6)-2;(7)(C)-2: Once again, just to let you know who's in  
6 the room, we have Mr. [REDACTED] (b)(6)-4;(7)(C)4 and Captain [REDACTED] (b)(6)-2;(7)(C)-2 they  
7 represent Sergeant Frederick. Also present are Captain [REDACTED] (b)(6)-2;(7)(C)-2 and  
8 Specialist Charles Graner, two investigators from the defense teams.  
9 Captain [REDACTED] who represents Specialist Megan Ambuhl, who is  
10 also present, and Captain [REDACTED] (b)(6)-2;(b)(7)(C)-2 who represents Sergeant Javal  
11 Davis, and he is also present, as well as Captain [REDACTED] (b)(6)-2;(b)(7)(C)-2, who  
12 represents Specialist Sabrina Harman, and Captain [REDACTED] (b)(6)-4;(b)(7)(C)-4, who  
13 is one of PFC Lynndie England's attorneys. Mr. [REDACTED] is going to  
14 start off asking questions, sir, and I'll turn it over to Mr. [REDACTED]

15 Q: Mr. [REDACTED] (b)(6)-4;(b)(7)(C)-4

16 A: LTG Metz

17 Q. General, [REDACTED] here, and I want to thank you for your  
18 patience, and because we have little time, I'd like to cut to the  
19 chase. Could you define for me what operational imperatives are  
20 suggested to you which would require trials to remain in Iraq?

1           A.    The operational imperative for the trials to remain in Iraq  
2 seem to me centered around the best location to assemble the accused,  
3 the witnesses, the experts, and therefore I feel like it's the best  
4 place to conduct this trial.

5           Q.    Are you aware, sir, that virtually no witnesses remain in  
6 Iraq?

7           A.    Yes, I do realize that they've all--mainly at your location  
8 in Germany right now.

9           Q.    Do you realize that they're also in the United States?

10          A.    I understand that Specialist England is in the United  
11 States.

12          Q.    Referring to witnesses, General. That's correct on  
13 England, but with respect to witnesses, are you aware that multiple  
14 witnesses are also in the United States?

15          A.    Yes, I did realize that there are witnesses in the United  
16 States.

17          Q.    You are also aware, are you not, that non-military  
18 witnesses have to sign a hold harmless document because of the  
19 threatening nature of travel in entry and exiting Iraq?

20          A.    I am aware that such a document needs to be signed for  
21 their travel to Iraq.

1 Q. And are you also aware that many of these witnesses are  
2 Reservists who have given faithful time to their country and have  
3 been returned to the United States and would have to be asked to  
4 return to a combat zone for the mere purpose of being a witness given  
5 your rationale?

6 A. I did realize that there were Reservists that must come  
7 back on active duty and return to a combat zone, but feel like it's  
8 the proper place to conduct this trial.

9 Q. Do you believe it is appropriate to require civilians to  
10 risk their lives in order to be witnesses in this trial by your  
11 decision to keep it in Iraq?

12 A. I do believe that it is appropriate given the number of  
13 civilians who operate in this area of responsibility and the risk  
14 that they undergo that this is no different to them and therefore it  
15 seems to me appropriate.

16 Q. Let me examine that with you for a moment. The civilians  
17 you're talking about, I believe, are either government employees and  
18 are there for economic gain. How can you possibly compare them to  
19 individuals who are seeking to testify and to do justice?

1           A.    Well, I wasn't looking towards any equation.  My judgment  
2 was made on the individual threat to that particular person, and I  
3 wasn't judging it as an economic factor in there.

4           Q.    Well, these civilians would like to come testify at trial  
5 and are doing so in the interests of justice.  Why would you impose  
6 upon them fear of death in order to accomplish that?

7           A.    Well, because I do not see the probability of death that  
8 high, and therefore, overriding the feelings that I have that this is  
9 the right place to conduct the trial.

10          Q.    You recognize, as well, that there are active duty  
11 personnel who have served their country in Iraq and have rotated out  
12 of Iraq.  Do you believe it is appropriate to return them to a combat  
13 zone on multiple locations for the sole purpose of conducting this  
14 trial?

15          A.    Actually, I do.

16          Q.    And why, sir?

17          A.    It's their duty to perform the requirements that we need to  
18 seek justice, and again, I do not see the risk as that great to them  
19 as an individual and the environments to move through coming in and  
20 out of Iraq.

1 Q. Well then why, sir, do you think the civilians have to sign  
2 a hold harmless document that suggests to them that they could be  
3 killed in multiple ways from multiple sources?

4 A. Because given the obvious combat zone, there is that remote  
5 possibility that I think our legal procedures require. Again, with a  
6 corps of 150-plus thousand with a large number of supporting  
7 contractors and civilians there, it is a very, very low probability  
8 that we will have any loss of death due to this trial.

9 Q. And if there is, sir, what do you say to the families of  
10 that civilian who came there to do justice?

11 A. Many of the same words that I say to soldiers, parents and  
12 spouses and children that we do lose. It is a tremendous price that  
13 they have to pay, but I believe that it is the right thing to do to  
14 hold the trial here in Iraq.

15 Q. Tell me, sir, why we can't hold this trial in Kuwait.

16 A. The word "can" means that we have the ability, and we do  
17 have the ability to hold the trial in Kuwait. I just feel that it  
18 needs to be held in Iraq, and that is my position.

19 Q. Yes, but I think you owe us an explanation as to why.

20 Isn't it true that the principal reason you wish to hold this trial  
21 in Iraq has nothing to do with operational imperatives, but has much

1 more to do with geopolitical thinking, vis-à-vis, the perception of  
2 the Iraqi people, and/or the perception of the Arab world? Isn't  
3 that correct, sir?

4 A. No, sir, I arrived here on the 21st of January and did a  
5 change of authority with the Fifth Corps on the 1st day of February  
6 and become the Deputy Commander of CJTF-7, and during that process, I  
7 have developed the belief that this is the right place to conduct  
8 this trial and I have not been involved in the geopolitical aspects  
9 of that part of your discussion. So that is not part of my decision-  
10 making process.

11 Q. General Kimmitt a few days ago talked to us and was quite  
12 adamant in his view that these trials had to be held in Iraq for  
13 political reasons, namely to allow the Iraqi citizens to see a  
14 transparent system of justice and to give the Arab world the sense  
15 that our justice system meted out punishment when it was necessary.  
16 Are you telling me that that is not a consideration that you have in  
17 rendering a decision to keep this trial in Iraq?

18 A. Certainly, it is a consideration, and obviously, General  
19 Kimmitt whose business is or was the strategic communications for the  
20 command, but it is not a dominant reason in my mind. It does have

1 the effect that General Kimmitt mentioned, but it is not the central  
2 theme by which I make the decision.

3 Q. Well, if it is a consideration then, could you explain to  
4 me why Kuwait would not be an appropriate place to have this trial,  
5 given the fact that the danger to all parties concerned is greatly  
6 reduced and the ability to produce witnesses is greatly enhanced?

7 A. I think the degree in which the parameters change may not  
8 be as great as you indicate, given the proximity of Kuwait and the  
9 terrorists' capability to move throughout this region and impact  
10 those things that they would want to impact, so there would still be,  
11 in my mind, a probability, albeit smaller than the probability here,  
12 but in both cases, a very small probability, and I don't see the  
13 additional advantage to go into Kuwait.

14 Q. Well, there's a small probability everywhere of a terrorist  
15 attack, as we all well know. But could you please explain to me,  
16 sir, and I don't mean to be sophomoric with you. I'm trying to  
17 understand how it is possible that you or anyone else could conclude  
18 that causing people to face potential death irrespective of what the  
19 deminimus probability is in your mind, how that can possibly serve  
20 the interests of American justice when it is so easy to move this  
21 trial as you've done in the England case.

1           A.    I'm not sure that I have--I obviously have not articulated  
2 well enough the reasons that I feel we should stay.  But it's my  
3 feeling as the commander that the location in which the crimes were  
4 committed, the manner in which they were committed, we have certainly  
5 the wherewithal to conduct them in a fully prudent and safe way.  It  
6 is my feeling this is the best place that I should recommend and I  
7 should hold my position that the trials should be here.

8           Q.    With whom have you had discussions about the location of  
9 the trial?

10          A.    I have discussed it with my Staff Judge Advocate, and that  
11 was an early on opinion and decision, and this is when the--if I  
12 recall correctly, the first major discussion I have had outside of  
13 SJA about this issue.

14          Q.    And you're telling us that the political considerations,  
15 and you're not under oath, but you are a gentleman and an officer,  
16 you're telling us that the political considerations played a very  
17 small part in your decision to keep this trial in Iraq,  
18 notwithstanding all of the imperatives to get it out of there.

19          A.    The first time I made the decision, it played a very small  
20 part, and that part may have--because of all the discussion and the  
21 things that you obviously pick up in the normal discussion and the

1 normal media, but really that increased influence has not been a  
2 major factor in my mind to change my opinion, your categorization of  
3 the political slice of this decision.

4 Q. What changes have you made in the treatment of prisoners  
5 since you have arrived on the scene?

6 A. Well, when I arrived, again, the 21st of January, this is  
7 what we call a left and right seat ride with my counterpart, General  
8 Wodjakowski, whom I was to replace, and then I did so on the 1st of  
9 February. As I understood it, to come in at that stage, many of the  
10 changes were under way, especially the living conditions of the  
11 detainees at Abu Ghraib, the processing by which they came in, the  
12 medical checks, the inprocessing of data, the living conditions that  
13 they were put in. Many of those things were ongoing, and I don't  
14 recall the exact date, but there was a day probably in the first  
15 couple of weeks of February that I visited and then revisited Abu  
16 Ghraib probably late February, early March on my second visit to see  
17 those continued improvements. I'm not sure that I've answered your  
18 question directly, but....

19 Q. Let me ask you a few specific questions and then I will  
20 turn the mike over to somebody else. Did you, upon hearing of ghost  
21 detainees, eliminate that process?

1           A.    I'm sorry, sir, I didn't understand the...ghost detainees,  
2 is that the correct word?

3           Q.    That's a phrase that's been employed uniquely to Abu Ghraib  
4 and it applies to individuals who were brought there by CIA or other  
5 government agencies, and these detainees were not ascribed an  
6 identification number as is required by the Geneva Convention. It  
7 was a practice at Abu Ghraib. Is it your testimony you're not aware  
8 of that?

9           A.    Sir, I'm not aware of that. The first I was made aware of  
10 that was Lieutenant General Casey, who got here the first part of  
11 July. It's been since his arrival that I was first aware of that  
12 issue.

13          Q.    And you've eliminated that practice?

14          A.    To my knowledge, that practice was never employed by CJTF-7  
15 or the Multinational Force or the Multinational Corps, and I know so  
16 little about it and I have a hard time saying much more. I'm not  
17 aware of that practice, and to my knowledge, it was not employed by  
18 this headquarters, the Corps headquarters, General Casey's  
19 Multinational Force headquarters. And in my experience over the 4  
20 months as the Deputy CJTF-7 commander, I don't know anything about a  
21 ghost detainee practice.

1 Q. Were you aware and did you change the policy on nudity?

2 A. I was not aware of a policy, and I don't know that there  
3 was a change because I just was not into the--upon arrival, one of  
4 the things that was not on my scope was the policy that was already  
5 in place at Abu Ghraib. And so, I'm not familiar with a nudity  
6 policy either way.

7 Q. Is the running of Abu Ghraib under your command now?

8 A. No, the detainee operations was pulled out and separated  
9 and is run by Deputy Commander, a Major General Geoff Miller handles  
10 the detainee operations for the Multinational Force, Iraq.

11 Q. And when did that occur?

12 A. It occurred, I don't know the exact date, it was in the  
13 springtime, and he deployed while we were still organized under CJTF-  
14 7. General Sanchez made him a deputy for detainee ops, and we began  
15 to task organize those assets, those formations under the CJTF that  
16 related to detainee ops under General Miller close while I was still  
17 the CJTF-7, a deputy commander for General Sanchez.

18 MR. <sup>(b)(6)-4, (b)(7)(e) 4</sup> [REDACTED] General, I want to thank you for taking the time with  
19 me. I appreciate it very much, and we're going to turn it over to  
20 someone else now, and Captain <sup>(b)(6)-2, (b)(7)-E-2</sup> [REDACTED] will take over.

21 LTG METZ: Yes, sir, thank you for your service.

1 Captain [REDACTED]: Sir, the next counsel is going to be Captain  
2 [REDACTED]. (b)(6)-2; (b)(7)(C)-2

3 Q: Mr. [REDACTED] (b)(6)-4; (b)(7)(C)-4

4 A: CPT [REDACTED] (b)(6)-2; (b)(7)(C)-2

5 Q. Good afternoon, sir, my name is Captain [REDACTED], and I'm  
6 the defense counsel for Sergeant Davis, who's sitting at my side  
7 here, and thanks for your time today. I'll try not to take too long,  
8 as we have limited time. So I'll cut right to the chase, sir. I'd  
9 like to ask you first about any conversations you may have had with  
10 General Sanchez about this case. I mean, have you had any?

11 A. No conversations with General Sanchez about this individual  
12 case, your client or any of the others in this particular concern.

13 Q. So, I mean, you've never discussed it all, even the fact  
14 that there was an investigation going on, anything of that nature at  
15 all?

16 A. Well, there were in-progress reviews when I arrived, the  
17 process of making changes at Abu Ghraib was already in place upon my  
18 arrival. So, as it relates to me, a staff meeting, an in-progress  
19 review, there would have been those kinds of conversations, but I do  
20 not recall ever having a discussion with General Sanchez that was  
21 solely devoted to my asking him a question or him giving me

1 information about Abu Ghraib. Whatever I needed to discuss with  
2 General Sanchez was in the environment of in-progress review or a  
3 staff meeting.

4 Q. If you could, sir, what do you mean by an in-progress  
5 review then? Who would be giving that in-progress review, or who  
6 would be present for it?

7 A. Well, for example, well, there would be the key staff  
8 members, if I recall correctly, the Provost Marshal for the CJTF-7  
9 was the principal staff officer under the C3 that reported detention  
10 operations and status of different projects that were being improved  
11 at Abu Ghraib and those kinds of things. So, it was a staff meeting  
12 in the classical sense of a commander there with his principal staff  
13 officers, Chief of Staff, and they were going over a particular  
14 topic. In this case, the topic was detainee operations.

15 Q. Sir, was Colonel [REDACTED] present in any of these meetings?

16 A. At those meetings, it was before Colonel [REDACTED] > (b)(6)-2;  
17 deployment here, and so it was the previous Provost Marshal, and his (b)(7)(c)-2  
18 name escapes me for just a second, [REDACTED] I think was the Colonel's  
19 name that was the Provost Marshal when I first arrived, and they  
20 redeployed in the early springtime when Colonel [REDACTED] arrived.

1 Q. Okay, sir. Now sir, I'd like to switch tracks a little  
2 bit. Have you ever read the Taguba report and its annexes?

3 A. I have not read the Taguba report cover to cover, and to  
4 answer, include the annexes. I was once present for his outbrief of  
5 General Sanchez when he was putting the report together. I don't  
6 think it had been completed at that stage, but felt like I had a good  
7 knowledge of his report. But I have not read word for word, cover to  
8 cover of that report.

9 Q. So, would it be fair to say you've read maybe parts of it  
10 or, I don't know, highlights of it?

11 A. I have read parts of it and highlights of it.

12 Q. Now sir, at this outbriefing, I guess, that General Taguba  
13 gave, was there any discussion at that briefing of what should be  
14 done about the situation, whether from a broad perspective of  
15 changing institution systems policies or anything else?

16 A. I can't give you a close view of what they were, but they  
17 were, if I recall correctly, Taguba had not finished his report but  
18 he was at a stage that he was beginning to--he had done his  
19 investigation and he was beginning to pull it together. And there  
20 were a set of recommendations, and again, I don't know exactly what  
21 they were. They were related to training and those kinds of things.

1 But there were a set that were briefed there at--which probably were  
2 a potential recommended set of conclusions and therefore findings and  
3 recommendations to those findings.

4 Q. Do you remember if there were any recommendations to take  
5 any kind of adverse action against any individuals anywhere in the  
6 chain of command from top to bottom?

7 A. I do not recall that there was a specified task to do some  
8 kind of adverse action during that particular outbrief.

9 Q. Did you ever hear General Sanchez express any opinion on  
10 whether the people who were responsible for some of this misconduct  
11 should have been held accountable in any way? Did you ever hear him  
12 talk about it at all?

13 A. No, I did not. As I mentioned before, outside of these  
14 kinds of meetings, staff meetings, I had very little discussion with  
15 General Sanchez about this subject.

16 Q. And so you've never heard him express an opinion on what  
17 should happen to the people responsible for the abuses at Abu Ghraib?  
18 Is that what you're saying, sir?

19 A. That's correct. There was not a discussion between General  
20 Sanchez and I or anyone in the chain of command about a particular  
21 soldier or case and a particular justice or action at Abu take place.

1 Q. Sir, were you aware of the visit that Secretary Rumsfeld  
2 and General Myers gave to Iraq after the scandal started? I would  
3 assume you were well aware of that visit when it occurred. Is that  
4 correct?

5 A. Yes, the Secretary and General Myers have been here, I  
6 think twice since I've been here. Once was, if I recall, was...I  
7 know for sure one was shortly after his congressional testimony and  
8 one was obviously before it. And again, I can't tell you exactly the  
9 dates, but I do recall two visits since I have been deployed.

10 Q. And on those visits, do you generally try to keep aware of  
11 how the visit is going when they go to alternate sites? Do you read  
12 the press releases, news reports, things like that?

13 A. My general day, sometime during the day, because of the  
14 time changes, I'll get the Early Bird and I'll check off the titles I  
15 want to read. And in most cases, I'd say, I don't recall reading  
16 very much about the Abu Ghraib cases from the press at all. But  
17 certainly, I'm pretty confident I didn't read a particular thing  
18 because of the Secretary's visit. And I may not be answering your  
19 question correctly. I may have missed it there.

20 Q. Well, I think you did, sir, but I'll try to be more  
21 specific. On a visit where General Myers, the Chairman of the Joint

1 Chiefs and Secretary Rumsfeld came to Iraq, they actually went to Abu  
2 Ghraib Prison. At that prison, both of them made some public  
3 comments that were reported to the media. Are you familiar with  
4 anything that they said at or immediately after their visit to Abu  
5 Ghraib?

6 A. No. I know that they visited out there because I remember  
7 the agenda was for them to go by there. I was not involved in that  
8 visit, and I don't recall any discussion they had or reading anything  
9 about that visit about them being out at Abu Ghraib.

10 Q. Okay, sir, do you ever remember hearing any kind of quote  
11 from General Myers about...and I don't want to...well, do you ever  
12 remember hearing anything quoted from General Myers to the effect of,  
13 what the worst possible thing would be as a result of this case? Do  
14 those words ring any bell to you?

15 A. They do not, and I don't know if "worst possible case" is  
16 for the war or for the soldiers or for the--I'm not sure what "worst  
17 possible case" refers to. But, I don't recall General Myers, either  
18 hearing him or reading something that related to "worst possible  
19 case."

20 Q. Okay, sir. Sir, were you present at the town hall meeting  
21 they held at Victory Palace?

1           A.    At the start of that town hall meeting, it occurred in the  
2 big foyer, I was in the nightly update. I remember that because on  
3 one of the screens, I could see it on one of the news media, and I  
4 thought how ironic it was that in the other room, the TV was going  
5 all the way back to the States and back here. So, probably for  
6 three-quarters to maybe more than that, I was in the tactical update  
7 while that was going on. When I came out of it, I walked into that  
8 town hall and stood for the rest of it in the back part of the crowd  
9 as he finished up answering questions from the audience.

10          Q.    So you're saying that you were present for roughly the last  
11 quarter of that meeting. Is that about right, sir?

12          A.    Yeah, it was mainly--he had finished, if I recall  
13 correctly, he had finished--his presentation--to answer questions  
14 from soldiers and the microphone would be passed among the soldiers  
15 and they were asking him about different questions as I came out of  
16 the Joint Operations Center having finished the commander's update  
17 that evening.

18          Q.    Sir, and after that meeting was over, at any point, whether  
19 that day or any day afterward, did you ever get any kind of summary  
20 of what went on at the meeting, of what was talked about? Did anyone  
21 back brief you on how it went?

1           A.    I'm not sure which meeting we're talking about.  The town  
2 hall meeting?

3           Q.    Yes, sir.

4           A.    Or some other meeting?

5           Q.    The town hall meeting, sir.

6           A.    When the town hall meeting was over with, if I recall  
7 correctly, it was close to his departure time, and I don't think I  
8 saw him again after that and there wasn't any discussion about the  
9 town hall meeting that I can recall.

10          Q.    Did any of your staff talk about it later, maybe the PAO  
11 representative or anyone else?

12          A.    No, the only thing the staff talked about, the staff had to  
13 work to get the PA system set up and make sure that the soldiers were  
14 there and those kinds of things.  I don't recall any substantive  
15 discussion of what went on at the meeting, the town hall meeting  
16 afterwards.  It was just an event that came and went and we went back  
17 to business.

18          Q.    Okay, sir.  Sir, since this whole thing started, have you  
19 been required to give any kind of updates to any of your superiors on  
20 what actions were being taken to address the Abu Ghraib scandal, if I  
21 could call it that?

1           A.    No, and as the Deputy Commander of CJTF-7, I was doing a  
2 set of tasks that were not related to the detainment or the  
3 interrogation of the actions out at Abu Ghraib. And then, by the  
4 time we split the headquarters and I became the Multinational Corps  
5 commander, General Miller was on board as the Deputy Commander for  
6 detainee ops, so I have, in my 7 months deployed here, been on the  
7 margins, even at that, related to the detainee ops, and I guess  
8 anything related to the Abu Ghraib functioning prior to my arrival.

9           Q.    Sir, I guess I'll just ask you point blank. Have you ever  
10 felt, whether explicitly or implicitly, that anyone superior to you  
11 in the chain of command wants any particular result in these legal  
12 cases? Have you ever felt any pressure to make sure any of these  
13 people were court-martialed or punished or anything else?

14          A.    No, I have not. I have limited conversations and have been  
15 very alert to the fact that I needed, as the court-martial convening  
16 authority to make these decisions and have not discussed with my  
17 people in my current joint chain of command, being General Casey or  
18 General Abizaid or the Secretary, anything about these. So I have  
19 not discussed it with anyone higher.

20          Q.    Now, sir, you may or may not be aware that some of the, I  
21 guess, reports or investigations in this case may at least in theory

1 or potentially implicate General Sanchez as having being derelict in  
2 some fashion. Would you feel reluctant to take any action that may  
3 reflect poorly on General Sanchez?

4 A. No, I'm the court-martial convening authority and the  
5 investigations are concluded and information is available to my Staff  
6 Judge Advocate. I'll make decisions based on that information. So,  
7 we're working off of the facts of the case, and it would not be  
8 reluctant if the facts of the case drove me to having to do a  
9 negative or adverse action to someone like General Sanchez.

10 Q. Well, what I guess what I meant by it is, if you took, for  
11 example, a favorable action to an accused based on mitigating  
12 information that may indicate that someone above them, to include  
13 General Sanchez, had been derelict or irresponsible in some way. I  
14 don't know if that makes sense.

15 A. Well, no, I think it does. I just feel like that I am in a  
16 position that we must do the right things based on the evidence, and  
17 I am not shy about doing the right thing regardless of General  
18 Sanchez or any of the other senior officers or noncommissioned  
19 officers or soldiers involved with this particular case.

20 Q. Okay, sir, now, sir, I'm at the tail end of the time that's  
21 been allotted to me, but if I could, I'd like to ask you a quick

(b)6-4; (b)(7)(C)-4

1 question to clarify something Mr. ██████ asked you about. And I  
2 apologize if this is beating a dead horse. But I guess what I'd like  
3 to ask, sir, is when you began talking to Mr. ██████<sup>(b)6-4; (b)(7)(C)-4</sup> about the choice  
4 of venue in this case, keeping it in Iraq, you said something about  
5 Iraq being the best place to gather all the relevant witnesses and  
6 accused. And I guess it wasn't clear to me why you felt that when  
7 the large majority of potential witnesses are either in Germany or  
8 CONUS. Do you think it's easier to bring everyone together in Iraq  
9 than any other location?

10 A. I think, as we went through that discussion, I was thinking  
11 more in terms of as this process began, and obviously today as we  
12 move down the trail, people scattered in different places, but I  
13 still have a thread of thought that, as a commander, this is the  
14 right place to continue to bring the information back and work the  
15 details of the justice, and that has just been a consistent theme  
16 that I had in my mind. Obviously, Mr. ██████<sup>(b)6-4; (b)(7)(C)-4</sup> question and your  
17 question, it is obvious that lots of people are concerned about it,  
18 but I have marched through the time with the idea in my head that the  
19 best thing for the justice is to conduct the trial here. So, I may  
20 have been interpreted a little bit, but I just think it's the  
21 continuity of thought of over time and it hasn't changed.

1 Q. Okay, sir, and I'll ask one final question, and then I'll  
2 turn it over to another counsel, and my question is this, would your  
3 decision on venue be influenced if there were even one civilian  
4 witness with important relevant information who could not be  
5 subpoenaed or forced to come to Iraq, if they were unwilling to come  
6 voluntarily but they could be present at any other location, would  
7 that influence your decision in how fair a trial any given accused  
8 could get?

9 A. Well, in order to have a fair trial, that one witness, it  
10 will obviously influence me. I guess it's one of those hypotheticals  
11 that, I'm not going to say it's impossible, but I think I've got to  
12 make those judgments as the counsel come to me and make a request.  
13 So, you're looking for a "yes" or a "no" to a question that's got a  
14 lot of variables to it.

15 CPT (b)(6) 2 - (b)(7)(c) - 2 [redacted] Okay, so bottom line, sir, is--I'll cut it off, sir.

16 Sir, I'm going to turn it over to Captain (b)(6) 2; (b)(7)(c) - 2 [redacted], who represents  
17 Specialist Graner. Thank you for your time, sir.

18 Q: CPT (b)(6) 2; (b)(7)(c) - 2 [redacted]

19 A: LTG Metz

20 Q. Good afternoon, sir. I'm Captain [redacted], and to my left  
21 is Specialist Charles Graner, along with [redacted] I represent

(b)(6) - 4; (b)(7)(c) - 4

1 Specialist Graner in this case. Sir, do you get a daily PAO press  
2 update briefing?

3 A. I do not get a daily PAO briefing. On several different  
4 venues though, they do keep me up to date. I get a read book early  
5 in the morning. A little bit later, I sit through a Multinational  
6 Force battle update in which there is some reporting of public  
7 affairs. And then in my own staff meetings, I've got a little piece  
8 that's, public affairs is a subcomponent of information operations.  
9 So, in a battle rhythm there will be information on slides, but I  
10 don't have a stand alone public affairs briefing daily.

11 Q. Sir, do you personally follow the news, both international  
12 and national on the Internet?

13 A. I do not. I may read an article that's suggested to me a  
14 couple times a week. I generally check articles, the titles of  
15 articles in the Early Bird I may be interested in. During doing PT  
16 at night, I will generally watch one of the news channels on AFN, but  
17 don't spend a lot of time. I just don't have a lot of time to spend  
18 reading a whole lot of articles. So, if the description of my day or  
19 the meetings is what you need, I think I've given that, but I may not  
20 be answering your question that you're asking.

1 Q. I got it, sir. Were you aware of President Bush's address  
2 in the Rose Garden at the end of April related to Abu Ghraib?

3 A. I couldn't write an essay on it, and if you gave me a true,  
4 false, I'd probably get it right because he probably did have--at the  
5 Rose Garden, but I'm not familiar and certainly didn't watch a Rose  
6 Garden presentation.

7 Q. Sir, are you aware or have you heard of any comments that  
8 President Bush has made related to the Abu Ghraib case?

9 A. I know that he's made comments that it was unfortunate,  
10 those kinds of words. But I don't recall if they were in a--what  
11 context that was in. It may have been the 10 or 15 second clip on  
12 whether the national news media teach me things that I may have seen.  
13 But I do recall, probably on occasion, seeing the President and  
14 mentioning how disappointed he was or some sentence like that.

15 Q. Sir, did you hear press coverage of Secretary Donald  
16 Rumsfeld commenting on the Abu Ghraib case?

17 A. Often during the time I do PT at night, about 2100 local  
18 will be early afternoon in the states, and often I'll watch a press  
19 conference. I can't recall if I watched a press conference on that  
20 particular subject. I do recall watching his testimony. It happened  
21 to come on one of the nights I was doing PT, and I watched probably

1 40 minutes of his testimony when I think he was in the Senate, if I  
2 recall correctly.

3 Q. Did you see or hear his comments, Secretary Rumsfeld, when  
4 he came to Iraq, Abu Ghraib?

5 A. When he came on that particular visit, I was on a 30-minute  
6 introductory call with General Sanchez and some of the other  
7 deputies, and it was obvious that he had finished that testimony.  
8 Obviously he had finished that testimony and made some comment about  
9 probably to the effect that it was hard. But we didn't go through  
10 the substance of any of the particular questions or anything. It  
11 really wasn't the highlight of that introductory briefing that  
12 morning. We were talking more tactical and operational things at  
13 that particular briefing.

14 Q. Sir, did you see General Myers' testimony before the hill?

15 A. The only thing I recall about General Myers, I remember him  
16 being at the table that time that I was doing PT watching that news  
17 conference, but I don't recall that he fielded very many questions.

18 Q. You didn't see him in front of Capitol Hill, sir?

19 A. Well, the one I recall was the news conference, not the  
20 news conference, the testimony, I think it was in the Senate. And if  
21 I recall correctly, it was the Secretary, the Chairman, I do remember

1 Dr. Cambone was in the background. And I was doing PT, and they did  
2 a 45-minute session and it was on I think when I started and when I  
3 finished. Now, I think that the Chairman was involved in that one.  
4 That's all I can recall.

5 Q. Sir, did you see General Sanchez's testimony before the  
6 Senate?

7 A. I did not see General Sanchez's testimony.

8 Q. Did you read a transcript of it?

9 A. I did not read a transcript of General Sanchez's testimony.

10 Q. Sir, did you see Colonel <sup>(b)(6)-2; (b)(7)(C)-2</sup> [REDACTED] testify before the  
11 Senate Armed--or the Senate Committee?

12 A. I did not--I think that was the same one. The only one  
13 that I saw was the one that the Secretary was on, and I did so at  
14 that PT session. But I just hadn't had the time or been in the  
15 environment to watch long TV programs.

16 Q. Okay, sir, I'll move on. Just to make it clear, did you  
17 ever talk with General Sanchez about Specialist Charles Graner's  
18 court-martial case?

19 A. I have not talked--I've never talked with General Sanchez  
20 about a court-martial case as it relates to Abu Ghraib.

(b)(6)2-(7)C-2

1 Q. Sir, did you ever talk with Colonel [REDACTED] about  
2 Specialist Graner's case?

3 A. I did not talk with Colonel [REDACTED]. He was General  
4 Sanchez's Staff Judge Advocate. The Corps has a different officer,  
5 and so I didn't talk with [REDACTED].

6 Q. I assume, sir, that you talked with Colonel [REDACTED] about  
7 this court-martial case. Is that correct? (b)(6)2-7C-2

8 A. Yes, Colonel [REDACTED] was my Staff Judge Advocate that I  
9 deployed with from the 3d Corps, and since has redeployed and I now  
10 have Colonel [REDACTED] who's my Staff Judge Advocate.

11 Q. Sir, what did Colonel [REDACTED] tell you about Specialist  
12 Graner's case?

13 A. Well, as we went through the facts of the case, he outlined  
14 the facts as he had gathered them as a Staff Judge Advocate would  
15 outline that information for a commander. But I can't quote to you  
16 what he said at that particular meeting.

17 Q. Sir, did you personally review the referral packet for  
18 Specialist Graner?

19 A. Yes, I reviewed that packet that Colonel [REDACTED] brought in  
20 to me.

(b)(6)2-7C-2

1 Q. Sir, do you remember reviewing the report of the Article 32  
2 hearing investigating officer?

3 A. I did not read that report top to bottom, but we got a  
4 thorough briefing on it from Colonel [REDACTED] (b)(6)-2; (b)(7)(c)-2

5 Q. Sir, do you remember how many witnesses testified at the  
6 Article 32 hearing?

7 A. I do not remember how many witnesses there were at the 32.

8 Q. Sir, what was your basis for referring Specialist Graner's  
9 case to a general court-martial?

10 A. As a commander, looking at the severity of the charges  
11 which my SJA believed were definable and could be proven by the  
12 government. That judgment as a commander led me to that decision.

13 Q. Sir, were you aware that the defense requested over 30  
14 witnesses for the Article 32 hearing?

15 A. I was not aware of an exact number. I was aware that there  
16 were witnesses requested, yes.

17 Q. Were you aware that no live witnesses testified at the  
18 Article 32 hearing?

19 A. I'm sorry, I didn't hear the first part of your question.

20 Q. Were you aware, sir, that no witnesses, live witnesses  
21 offered testimony at the Article 32 hearing for Specialist Graner?

1           A.    I was not aware that there were no witnesses at the Article  
2  32.

3           Q.    Sir, were you aware that defense request to interview the  
4  detainees, the alleged victims in this case was denied at the time of  
5  the Article 32 hearing?

6           A.    I do recall the fact was brought to my attention.

7           Q.    Are you aware that no victims testified at the Article 32  
8  hearing?

9           A.    Maybe I'm getting detainees and victims mixed up.  Those  
10 are two different questions?

11          Q.    No, sir, that's what I meant was, are you aware that no  
12 detainees testified at the Article 32 hearing for Specialist Graner?

13          A.    Yes, I was made aware of that fact.

14          Q.    And you still chose to go forward to a general court-  
15 martial.

16          A.    Yes, I made that decision.

17          Q.    Would your decision been different had you been aware that  
18 the defense witnesses, knowing that no live witnesses had been  
19 produced for the Article 32 hearing?

20          A.    I don't think so, given the depth of information that my  
21 SJA and I discussed that day.

1 Q. Sir, I'm going to switch gears for a minute and I want to  
2 focus you on a conversation that occurred, supposedly with Brigadier  
3 General Kimmitt. Sir, do you remember discussion the decision about  
4 where in Iraq to hold the Abu Ghraib trials? And this is a  
5 conversation with Brigadier General Kimmitt.

6 A. We, being a larger group than General Kimmitt and I, did  
7 have discussions on what is the best way, the most safe location for  
8 these trials. So yes, on several occasions, that subject was  
9 discussed.

10 Q. And now, sir, General Kimmitt said that he advocated going  
11 to CPA, now known as the International Zone, to hold these trials.  
12 Do you remember that?

13 A. He was one of those that advocated that. I do recall that  
14 that was a course of action that he presented at one or more of those  
15 meetings, yes.

16 Q. Sir, do you remember General Kimmitt advocating the  
17 advantage of having a convention center because it was a larger space  
18 than the Victory Base Courtroom?

19 A. That was one of the factors, and I don't recall that it was  
20 Kimmitt that brought it up. But space was one of the facts as we  
21 were laying out the different courses of action on what would be the

1 best location. But I don't recall that it was General Kimmitt; it  
2 could have been, but space was one of those factors.

3 Q. And do you recall General Kimmitt or someone else  
4 advocating CPA Convention Center for extra space to accommodate the  
5 news media?

6 A. Again, the news media was one of those criteria that we  
7 were dealing with in making a decision, and because of this job, I  
8 can make a pretty good assumption that he brought that up. So yes,  
9 that was a piece of discussion of several discussions that we were  
10 trying to figure out what's the best decision of where to hold the  
11 trials.

12 Q. Sir, did you agree with that position that it was better to  
13 have the trial at the Convention Center so as to facilitate more  
14 press coverage or press coverage of the trial?

15 A. Although we didn't do a decision making matrix, it was one  
16 of the parameters, but it was in my mind a very small and far from  
17 overriding part that that was General Kimmitt's--it was one of his  
18 concerns because that's the kind of business he was in, and he did  
19 advocate the Convention Center from his point of view, and that was  
20 one of the advantages that we could have--we were more skilled and

1 better positioned to manage media from that location than other  
2 courses of action that we were given.

3 Q. I'm sorry, sir, one final question. General Kimmitt  
4 commented that the advantage of having the media cover these trials  
5 was that the world, and in particular, the Iraqi people and those in  
6 the Middle East would be able to see these trials, that that was  
7 important for a degree of transparency, and the transparency in the  
8 court-martial process would assist the American military position in  
9 Iraq. Sir, number one, are you aware of that position being  
10 advocated, and number two, do you agree with it?

11 A. I'm a witness that that was his position. I don't totally  
12 agree because I think in the information age now that that  
13 information is--if you're going to move around considerably. But I  
14 do recall General Kimmitt's position, and he articulated that at the  
15 couple of meetings we had about making a decision on the location.

16 Captain [REDACTED]: Thank you, sir.

17 Q: CPT [REDACTED] (b)(6)-2; 7(C)-2

18 A: LTG Metz

19 Q. Good afternoon, sir, I'm Captain [REDACTED]. I  
20 represent Specialist Megan Ambuhl. Sir, what conversations have you  
21 had with Colonel [REDACTED] about the charges in these cases?

(b)(6)-1; 7(C)-1

(b)(6)-1; (b)(7)(C)-1

1 A. Colonel [REDACTED] is one of my MP brigade commanders. I see  
2 him probably once a week, and most of them operational reasons. I  
3 can't recall having a conversation with [REDACTED] about this case at  
4 all. (b)(6), (b)(7)(C)-1

5 Q. And sir, what was General Sanchez's reaction when these  
6 cases broke publicly in the media?

7 A. I think General Sanchez always was aware that they would  
8 break and when they broke, it was going to be unfortunate. So he was  
9 his usual self, a pretty introverted--he had very little reaction. I  
10 think I'm answering your question, but I'm not sure.

11 Q. I guess I'm just wondering what, you know, what he had said  
12 to you, if it was anything like, "Oh, this is a shame that this  
13 happened," or what he actually said to you, because you indicated  
14 that there was some, at least, informal discussion about the cases  
15 and about the allegations. And I'm wondering more specifically what  
16 that was, sir?

17 Q. Again, I can't recall a particular sentence or paragraph  
18 that we discussed at or around the time that the release was made. I  
19 just recall that we were, as we went through--upon my arrival, there  
20 were those inprogress reviews about improving the detainee  
21 operations. He had notified Central Command and when the news media

1 did break, it was one of those...you knew that it was, and it really  
2 wasn't a big surprise, and there wasn't a whole lot of conversation  
3 among us in the different forums that we interacted on.

4 Q. Sir, would you agree that the allegations that have come  
5 forward are possibly one of the biggest military scandals in the past  
6 10 years?

7 A. Well, yes, certainly, as my mind scrolls, it probably would  
8 be in the top 10 in the past 10 years.

9 Q. And so with that knowledge, what discussions were had about  
10 how these people were going to be held accountable for their actions?

11 A. Well, commanders in these situations understand that we owe  
12 the soldiers and the Code of Justice of doing the right things, and  
13 so there was little discussion, and hardly no discussion about what  
14 ought to happen to an individual in these--there was discussions  
15 about the impact that it have on the entire situation that we were  
16 under. But we were very conservatively cautious about any other  
17 discussions.

18 Q. Sir, why have there been no officers charged under the UCMJ  
19 for their misconduct in this scandal?

20 A. Because in my opinion, that their particular actions were  
21 not of the degree to which they should be charged. And as I look at

1 the facts as they're presented to me, other mechanisms were used to  
2 correct their involvement, albeit in most cases, very small, in the  
3 particular incidents that occurred.

4 Q. Now, sir, you understand that under the UCMJ, both officers  
5 and enlisted can be charged with something like dereliction of duty?

6 A. Yes, I do understand that.

7 Q. Why weren't any of your officers charged with dereliction  
8 of duty, sir, either by court-martial charges or by Article 15, sir?

9 A. In most of the cases, we did not feel that their  
10 dereliction, or that there was dereliction of duty in the sense that  
11 it would be--that we could prove it in a court and it is my belief  
12 that if you want to impose the Article 15 of the Uniform Code of  
13 Military Justice that you need to be prepared to go to court in the  
14 event that the soldier refuses that Article, which is his or her  
15 right. And we did not feel that the court-martial was the  
16 appropriate mechanism.

17 Q. Sir, you keep referring to "we," who is "we," sir?

18 A. Generally, my--when I say "we," it's my Staff Judge  
19 Advocate and I because he is the staff officer that helps me as I  
20 work my way through the thought processes and I use my experience and  
21 judgment, but he is my technical staff support in these matters. So

(b)(6)-2; (b)(7)(C)-2  
1 when I say "we," either it's Colonel [REDACTED] several months ago, or  
2 Colonel [REDACTED] now as my Staff Judge Advocate.

3 Q. Sir, are you anticipating referring any additional charges  
4 from your command with regard to these cases?

5 A. We're still doing investigations, and so I'll probably  
6 leave it open. There's still a possibility that additional charges,  
7 additional soldiers could be charged in this case.

8 Q. Sir, who is Specialist Ambuhl?

9 A. Specialist Ambuhl is one of the soldiers charged in this  
10 case that we're discussing.

11 Q. And what charges did you refer to court-martial for  
12 Specialist Ambuhl, sir?

13 A. Well, I do not have those memorized, and I can always go to  
14 the data to find that out. But I have not committed to memory each  
15 charge of each soldier that we have referred those charges.

16 Q. Can you recall, with Specialist Ambuhl, what documents or  
17 evidence you reviewed before sending her case to a general court-  
18 martial?

19 A. I'm not sure of the question. What documents?

20 Q. What did you review?

21 A. Article 32s or charge sheets?

1 Q. Yes, sir, all of those things. Did you review them before  
2 sending Specialist Ambuhl's case to a general court-martial?

3 A. Yes, I sit with my Staff Judge Advocate with a rather large  
4 binder of documents, and we go through the different paragraphs as  
5 they're highlighted and summarize and draw together all the facts of  
6 a particular case. But I don't have each of those cases and each one  
7 of those pages committed to memory.

8 Q. And with regard to that Article 32 report, sir, do you feel  
9 that you would have relied heavily on the Article 32 officer's  
10 findings and recommendations?

11 A. The Article 32 was certainly one of those key documents as  
12 we work our way through the decision process. But it is one of the  
13 inputs that we get as the commander.

14 Q. Well, sir, in Specialist Ambuhl's Article 32, the Article  
15 32 investigator recommended dismissing two of the charges against  
16 Specialist Ambuhl because there was not enough evidence. What  
17 considerations did you make in overriding the recommendation of the  
18 32 officer, sir?

19 A. I regret I cannot recall those particular two. I do recall  
20 having the discussion, but I cannot recall those facts. And so, I

1 would have to go back and review and get back with you, but I just  
2 don't have that granularity right now.

3 Q. Sir, once you've had the chance to review that information,  
4 would you be willing to answer further questions specifically about  
5 Specialist Ambuhl's case?

6 A. I sure would.

7 Q. Thank you, sir. Sir, with regard to the location of the  
8 trials, effectively, couldn't these courts-martial be held really  
9 anywhere in the world and the soldiers would still get a fair trial?

10 A. Well, in theory, I guess you're right, in theory.

11 Q. If the government, for example, if the government did not  
12 call any Iraqi witnesses or any in-theater witnesses, wouldn't that  
13 be a factor in your decision as to where the trials should be held?

14 A. Yes, as facts are brought in and given no Iraqis or no in-  
15 theater--it becomes a very dominant piece of the decision making  
16 process. And anything is possible, but I can't make a judgment right  
17 now on how much no Iraqis or no in-theater would in the next round if  
18 we get asked to change the venue. So I just need to absorb all the  
19 information at a time and make a judgment with all the information.  
20 Those are important parameters.

1 Q. Sir, your command then, as convening authority, you'd be  
2 willing to readdress the issue of location on a case-by-case basis,  
3 sir?

4 A. Yes, because when it is brought in, I've got to go through  
5 that information and make the decision.

6 Q. Sir, switching gears again, with regard to the offense of  
7 dereliction of duty, the government, obviously, must prove that some  
8 of these soldiers had certain duties. Do you understand, I guess,  
9 starting with that principal, sir?

10 A. Yes, I think you....

11 Q. Sorry, sir, following on from that, for example, if one of  
12 the duties was to stop photographs from being taken, do you think  
13 it's fair that a soldier would be charged with dereliction by failing  
14 to stop the photographs, but then also by maltreatment by failing to  
15 stop the photographs? Do you think that's fair to charge a soldier  
16 twice for basically the same offense, sir?

17 A. Well, again, you're posing a question to me with two facts,  
18 but there may be others involved. We certainly--I mean, I hate to  
19 give a black or white to a very fuzzy question. I mean, I may not be  
20 understanding your question right.

1 Q. I guess just based on the facts that I gave you, sir, do  
2 you think that that's fair?

3 A. Well, I guess you've got to give them to me again so I  
4 understand them better.

5 Q. If a soldier witnesses some kind of abuse and that soldier  
6 takes photographs or watches somebody take photographs and they're  
7 charged as dereliction of duty because they had a duty to stop that,  
8 but then they are also charged with maltreatment because they had a  
9 duty to stop that. Just kind of systemically, based on those facts,  
10 does that seem fair to charge that soldier twice for the same  
11 conduct? And I understand, sir, there's certainly, in every case,  
12 different facts. But just with that limited scenario.

13 A. I understand now. And yes, with that particular list of  
14 scenarios you just gave, it would seem that you were doubling up in a  
15 catch22. I understand what you're saying.

16 Q. And you understand, I guess, that is, in fact, a catch22  
17 for the soldier?

18 A. Well, again, with just those two parameters given to me, it  
19 could be. But I would have to understand a whole lot more about the  
20 full picture. But I understand your question and yes, there could  
21 be...catch22 is the best expression I've got about that overlap.

1 Q. Yes, sir, thank you. Sir, you'd indicated that you took  
2 kind of careful steps to avoid discussing this case or what should  
3 happen in this case with others above you and below you. Is that  
4 accurate, sir?

5 A. Yes, it is.

6 Q. What direction did General Sanchez give to you about what  
7 you should or should not say about the case?

8 A. General Sanchez did not give me any guidance. Again, I  
9 came into theater late in January. We had the change of authority on  
10 the 1st of February, so I took the duties of a Deputy CJTF Commander  
11 1 February. Based on my experience, I had a very good idea that we  
12 were going to be going through the future at some very difficult  
13 times and I needed to ensure that I can sit here today and know that  
14 I had not discussed with my higher headquarters or my higher  
15 commanders and keep myself isolated so that I could make decisions  
16 based on my experience and the input of my staff and not others. So,  
17 I have gone out of my way to try to stay isolated.

18 Q. Sir, my last question, I'm assuming that you've seen some  
19 of the photographs in this case, either in the case file or in the  
20 media. And if I can ask you to direct your attention, just in your  
21 memory, to a photograph of naked detainees who are in a pyramid and

1 there were two soldiers standing behind that pyramid. Generally, do  
2 you recall that photo, sir?

3 A. Yes, I do.

4 Q. And now that I've drawn your attention to that, more  
5 specifically, you do recall that the female soldier in the back was,  
6 in fact, Specialist Ambuhl, right, sir?

7 Captain [REDACTED] General Metz, I mean, no, you don't have to  
8 answer that General Metz. Captain [REDACTED] (b)(6)-2 (b)(7)(C)-2

9 Q. I'm sorry, sir, because I can follow up in writing. I just  
10 wanted to recall if you knew who that soldier was behind there.

11 Captain [REDACTED] General Metz, don't worry about that. If  
12 you want to have him answer that, go back to the judge and get an  
13 order. We're not playing games here. Captain [REDACTED] let's go. (b)(6)-2 (b)(7)(C)-2

14 [The session broke at 1348 and started again at 1402, 25 August  
15 2004.]

16 Q: CPT [REDACTED] (b)(6)-2, (b)(7)(C)-2

17 A: LTG Metz

18 Q. Good afternoon, General. This is Captain [REDACTED]  
19 and I'm representing Specialist Sabrina Harman, sir. Thank you for  
20 spending time with us. Sir, I'd just like to follow up on some of  
21 the questions the other attorneys asked you.

1           You said that when you took over command, that changes were  
2 already in progress for the inmates at Abu Ghraib, sir. Were changes  
3 being in place for the soldiers' conditions, sir?

4           A. Yes, we had recognized, I think my predecessors had  
5 recognized the life support systems were below standard and needed to  
6 be improved. And if I recall, the improvements in the dining  
7 facility, the PX, those kind of things were made, but that is in  
8 recognizing it was in progress either as a staff action or physically  
9 actually building and making changes.

10 [Video feed was lost, and restored.]

11           Q. Sir, you agreed that this case was probably one of the top  
12 10 scandals in the military in the last 10 years, sir. Despite that,  
13 you're saying that you have not had any discussions with your higher  
14 chain of command regarding this case, sir, at length or even a  
15 little?

16           A. Certainly there are environments in which the topic is  
17 brought up. But I knew from early on in the process that I would  
18 need to work very hard to be able to be the court-martial convening  
19 authority and use my judgment. And so, we did not engage in pointed  
20 long discussions on the subject. So, you can't be a Deputy Commander  
21 of an outfit and not be in a staff meeting when the subject comes up.

1 But I did not have counseling about or discuss with anybody in my  
2 higher chain of command these cases.

3 Q. Sir, how often would you say the subject was brought up and  
4 with whom?

5 A. Probably we would have a...the subject would come as  
6 a...when I subject the subject, detainee ops or something about it  
7 would come up at a staff meeting once a week. There may be a piece  
8 of data that the commander was given. It's very hard to put a  
9 quantifiable number of minutes per work and with whom. But there  
10 were clearly staff actions focused on improving Abu Ghraib, improving  
11 detainee ops, improving the way we were doing business. And there  
12 was the event of soldiers and doing things that could have been in  
13 violation of the Uniform Code of Military Justice, and that's where  
14 we did not discuss those particular individual acts about individual  
15 soldiers.

16 Q. Sir, would you say that----

17 A. And if you'll help me with the question, I'll try my best  
18 to give you...no, go ahead.

19 Q. I'm sorry, sir. Sir, would you say that when soldiers  
20 commit light crimes that they should be punished in a light manner?

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1           A.    Light crimes, if that's my only input that you're giving  
2 me, my only output will be yes.

3           Q.    Sir, are you aware of the Camp Bucca detainee scandal prior  
4 to the Abu Ghraib situation, sir?

5           A.    Very little.

6           Q.    Sir, are you aware that, in fact, most of those soldiers  
7 were given Article 15s and letter or reprimands?

8           A.    I was not aware of that.

9           Q.    Sir, if in fact, you had been aware of that, would it have  
10 changed your mind in any way and maybe not gone forward with general  
11 court-martials here in this situation and maybe just given them  
12 Article 15s and GOMORs, as well, sir?

13          A.    I don't think so, but again, that's very little input for  
14 what I think is a lot of output of an answer. Obviously, any input  
15 causes one to go through the thought process, and I can't predict  
16 exactly what would have happened with that input.

17          Q.    Sir, if I were to tell you that some of the soldiers at the  
18 Camp Bucca scandal had, in fact, been charged with physically beating  
19 the detainees, and obviously, I'm speaking of Specialist Harman.  
20 She, in no way, is charged with any kind of physically beating of a  
21 detainee, and those Camp Bucca soldiers received Article 15s. Would

1 it be fair, in your mind, to charge Specialist Harman with a general  
2 court-martial?

3 A. We're charging Specialist Harman based on the facts as I  
4 got them, and I do not think--which I didn't have, of a different  
5 case, a different situation, a decision by a different commander  
6 without a whole lot of influence on the way I would go through the  
7 decision making process and the facts that were brought to me.

8 Q. Sir, when your SJA came in before your referral for  
9 Specialist Harman and you reviewed all the documents, the Article 32  
10 and all the other documents in that case, sir, how much time would  
11 you say you spent with your SJA regarding Specialist Harman's  
12 referral?

13 A. Well, I would say it was probably anywhere from 20 to 30  
14 minutes on that particular case as we went through it.

15 Q. And sir, do you recall that the IO's recommendation there  
16 was to dismiss two of the charges for Specialist Harman?

17 A. I may have--that question was asked earlier, and I may have  
18 confused--I do recall disagreeing with the IO, and I cannot  
19 distinguish between the two in my mind right now. But I do know that  
20 there have been charges that I have included that the IO did not

1 recommend, but I just don't have that granularity in my mind right  
2 now.

3 Q. Sir, do you recall that in Specialist Harman's Article 32,  
4 the IO recommended that this not go to general court-martial, that it  
5 goes to a lower court-martial or a lower form of punishment? Do you  
6 recall that, sir?

7 A. I do not recall that.

8 Q. Do you recall whether you took that into consideration  
9 before you referred this to a general court-martial, sir?

10 A. I can't sit here--I may have had the data at the time.  
11 Right now, I can't recall that particular piece of detail.

12 Q. And sir, at this time, you don't recall particularly what  
13 documents you reviewed with your SJA in order to have you decide to  
14 refer Specialist Harman to a general court-martial, sir?

15 A. As we go through the binder, I apologize to you, but I just  
16 don't memorize--I tape record the information as it's presented to me  
17 and I look through it. When you say a particular document, there are  
18 any number of documents in the binder.

19 Q. Sir, would further review of these documents, perhaps, in  
20 any way influence you to change your mind about referral to a general  
21 court-martial for Specialist Harman?

1           A.    I think I went through a decision making process at the  
2 time that I was comfortable with and am still comfortable with.

3           Q.    Sir, in view of the other reports that are coming out, the  
4 Fay report, the Schlessinger report, the Church report, does that, in  
5 any way, influence your decision? For example, we got a report out a  
6 couple of days ago saying that, in fact, officers certainly should  
7 have been...that the leadership was to blame, that the leadership was  
8 to blame, sir. Does that in any way impact your decision about  
9 referring Specialist Harman to a general court-martial?

10          A.    No, all those were after my decision making process, and  
11 they do not impact that previous decision.

12          Q.    Sir, so you're saying that despite the new reports and  
13 investigations that are being put out, that's not going to change  
14 your mind in any way?

15          A.    Right now, that's what I'm saying.

16          Q.    So if, in fact, these new reports and investigations came  
17 out with new details, that would not influence you in any way, sir?

18          A.    Well, if I'm given a motion to go take that information and  
19 bring it back to my decision making process, I would certainly honor  
20 that request to do so and go through the process. I don't know what  
21 the results of that decision process would be, because I'm not

1 available to the facts right now, and I have not taken the time to  
2 read all these additional investigations.

3 Q. Sir, so you would, sir, welcome perhaps a motion to you to  
4 have you consider the new investigation reports that are coming out  
5 now, sir? Would you be open to that, sir?

6 A. I would be open to...if new information impacts the justice  
7 of a soldier, I am open for that information.

8 CPT [REDACTED] Thank you, sir.

9 Captain [REDACTED]: Sir, we have one last attorney. This is  
10 Captain [REDACTED]. He represents PFC Lynndie England who is  
11 currently over at Fort Bragg. He only has a very few questions as it  
12 pertains to you since you're not the convening authority in that  
13 case, but he does have a few questions that go to some of the facts.

14 Q: CPT [REDACTED]

15 A: LTG Metz

16 Q. Sir, can you tell me a little bit about why or what  
17 conversations you had with the those in the 16th MP Brigade chain of  
18 command with respect to Private England, particularly about the  
19 decision to send her back to Fort Bragg?

20 A. One of the main considerations there was her pregnancy, and  
21 we felt that that was the right thing to do and was the

1 recommendation of the chain of command. And if I recall correctly,  
2 that was one of those parameters that we felt merited sending her  
3 back.

4 Q. And why was she sent to Fort Bragg, sir, as opposed to Fort  
5 Lee where she mobilized out of or Fort Jackson, any other  
6 installations?

7 A. I'm sorry, I can't answer that.

8 Q. And just so I'm clear, you can't answer it because you  
9 don't know or you're not at liberty to say, along those lines, sir?

10 A. If I did, I'd be happy to tell you. Again, I didn't have  
11 the details of Lee versus Bragg.

12 Q. And sir, earlier in your discussion with some of the other  
13 attorneys, the idea of the worst possible case for these particular  
14 cases was referenced? In response, you said, I'm not sure if it  
15 dealt with the soldiers or...in your mind, what is the worst possible  
16 case for these cases? Worst possible outcome, I guess, for these  
17 cases.

18 A. I apologize, I'm not sure I...worst possible outcome?

19 Q. Yes, sir.

20 A. I guess what's in the Code of the Military--you know,  
21 what's in the Uniform Code of Military Justice is the worst possible

1 outcome for a charge. But I'm not so sure that's the question you're  
2 asking.

3 Q. I'll move on, sir, not exactly, but it was in a slightly  
4 different context. But you listed factors earlier in your decision  
5 to keep the trials in Iraq, particularly witnesses, experts, and so  
6 on, the accused. Leaving aside the witnesses issue, what experts you  
7 believed were going to be relevant to those trials would be in Iraq  
8 at that time or would be utilized in the trial?

9 A. Well, we certainly have those officers and soldiers that  
10 are in that environment and have watched that environment since we've  
11 been here. So I'm not so sure I got the question yet.

12 Q. Sir, you said there were a number of factors that you said  
13 went into your decision to keep the trials in Iraq, and you said one  
14 of those factors was witnesses, one of those factors was experts and  
15 one of those factors was the accused. Now, leaving aside the one  
16 factor dealing with witnesses, what did you mean by experts at the  
17 trial with respect to a factor in your decision to keep these trials  
18 in Iraq?

19 A. I think when I used that term I was thinking of those  
20 leaders, people involved in the process, either the detention or

1 integration or chain of command and those kind of people that have  
2 the knowledge of these events and the environment around them.

3 Q. So it would be fair to say we're just talking about a  
4 particular type of witness per se, not necessarily an expert in a  
5 legal sense?

6 A. Yes, because I think that legal experts may not be  
7 particular here, but they have a technical legal expertise at a  
8 distant location

9 Q. And going back to the 16th MP Brigade chain of command, did  
10 you speak with Colonel [REDACTED] at all about Private England, sir?

11 A. I do not recall ever talking to [REDACTED] about England  
12 since all this began since he deployed here. I don't recall any  
13 discussion with him.

14 Q. Sir, who in particular do you remember speaking with about  
15 PFC England?

16 A. The Staff Judge Advocate for sure, and outside of that  
17 discussion, I can't recall singling out England as a discussion point  
18 with anyone else. I may have, and I'm trying to think, I just can't  
19 remember if the recommendation to send her back was done in writing  
20 or if it came to me verbally from [REDACTED] I could have talked with  
21 him about it, but I don't think so. I think all that was a written

1 request if I recall correctly. So I don't think I talked about  
2 England with anybody.

3 CPT [REDACTED]: Okay, sir, thank you very much.

4 Captain [REDACTED]: Sir, just one last question with [REDACTED]

5 [REDACTED]

6 LTG Metz: Thank you.

(b)(6)-2; (b)(7)C-2

7 Q: CPT [REDACTED]

8 A: LTG Metz

9 Q. Hi, sir. I just wanted to ask you if you would be willing  
10 to respond in writing to any questions, any follow up questions that  
11 any of the Abu defense attorneys would submit to you. I mean, we all  
12 just got 20 minutes of peace, and you've given us a lot to think  
13 about, and we would just like to know today if you would be willing  
14 to field questions from us later on in writing.

15 A. I certainly would. I'll have to admit that the tactical  
16 situation works over my shoulder here. It caught a little bit of my  
17 attention today and I owe you the answers to the questions that you  
18 would like for me to answer as the court-martial convening authority.  
19 So sure, if you've got particular questions, please send them and I'd  
20 like to respond to them.

21 CPT [REDACTED] Thank you, sir.

(b)(6)2 - (b)(7)-2

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(b)(6)-2; (b)(7)(C)-2

1 Captain [REDACTED] Sir, thank you very much for your time.

2 That will be all.

3 [The session ended at 1424, 25 August 2004.]

4 [END OF PAGE.]

UNITED STATES )

v. )

SERVICE OF THE RECORD OF  
TRIAL ON THE DEFENSE  
COUNSEL FOR 1105s

Staff Sergeant Ivan L. Frederick II,  
[REDACTED] Headquarters and  
Headquarters Company, 16<sup>th</sup> MP Bde  
(ABN), Fort Hood, Texas 76544 )

(b)(6) 2;  
(b)(7)(C) 2

In accordance with R.C.M. 1105 and 1106, Manual for Court-Martial, 2002, a copy of the Post-Trial Recommendation and a copy of the Record of Trial in the case of U.S. v. FREDERICK are attached for your examination. If you have any rebuttal, comments, corrections or other matters you wish to be considered by the Convening Authority before he takes action, submit them in writing to the Staff Judge Advocate, Fort Hood, Texas, within 10 days of service.

[REDACTED]

(b)(6) 2; (b)(7)(C) 2

SPC, USA  
Post-Trial Paralegal  
7 JUN 05

CERTIFICATE OF SERVICE

I acknowledge receipt of a copy of the Post Trial Recommendation and a copy of the Record of Trial in the case of U.S. v. FREDERICK. I understand that I have an opportunity to rebut, correct, or challenge any matter I deem erroneous, inadequate or misleading, or to comment on any other matter, and that my comments will be appended to the Post Trial Recommendation. If I have matters that I wish the Convening Authority to consider, or matters in response to the Staff Judge Advocate's recommendation, such matters must be submitted within 10 days after the accused or I receive a copy of the Record of Trial or the accused and/or I receive the recommendation of the Staff Judge Advocate, whichever occurs later. Upon my request, the Convening Authority may extend this period, for good cause, for not more than an additional 20 days. If I am unable to complete this within 10 days, I will provide, within that time, a request for delay in submitting the Record of Trial to the Convening Authority for action. I also acknowledge that failure to provide any reply or request for delay within 10 days will normally be deemed a waiver of any error in the review.

[REDACTED]

(b)(6) 2; (b)(7)(C) 2

CPT, JA  
Defense Counsel

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20041129

[REDACTED]. SPC CORPS

From: [REDACTED]  
Sent: Wednesday, July 27, 2005 1:14 PM  
To: [REDACTED]@us.army.mil  
Subject: Re: US v. Frederick

Thank you. I have asked [REDACTED] to handle the procedural stuff on this 1105. I think he requested an extension. He is at Wainright in Alaska with military justice. Do you mind checking in with him. I am on my way to Korea tomorrow and will return on Wednesday of next week. I told [REDACTED] wanted to make a submission so we will need a further extension.

Many thanks for the heads up.

[REDACTED]

(b)(6)-2;(b)7(c)-2

[REDACTED] NH

USA

[REDACTED]

D.C.

e-mail: [REDACTED]

018135

7/27/2005

20041129



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY TRIAL DEFENSE SERVICE  
REGION V, FORT WAINWRIGHT FIELD OFFICE  
FORT WAINWRIGHT, ALASKA 99703

REPLY TO  
ATTENTION OF:

APVR-WJA-TDS

28 June 2005

MEMORANDUM FOR Staff Judge Advocate, III Corps and Fort Hood, Fort Hood, Texas 23651

SUBJECT: Request for Additional Time RCM 1105 Matters

(b)(6)-4; (b)(7)(C)-4

1. Civilian defense counsel [REDACTED] recently reported to me that he has been served with the staff judge advocate's recommendation in the court-martial of U.S. v. SSG Ivan Frederick. Staff Sergeant Frederick is currently incarcerated at Fort Leavenworth, Kansas.

2. Defense requests an additional twenty (20) days time to gather, confer with client and submit RCM 1105 matters.

(b)(6) 2 (b)(7)(C) 2

3. Point of contact for this request is the undersigned at ([REDACTED]) and ([REDACTED]) at [REDACTED]

(b)(6)-4; (b)(7)(C)-4

(b)(6)-2; (b)(7)(C)-2

[REDACTED]  
CPT, JA  
Defense Counsel

018136

20041129

**PRIVACY ACT STATEMENT**

AUTHORITY: 42 U.S.C. 10606 et sec., Victim's Rights and Restitution Act of 1990; 18 U.S.C. 1501 et sec., Victim and Witness Protection Act of 1982.

PRINCIPAL PURPOSES: To inform victims and witnesses of their post-trial rights; to determine whether the victim or witness of a crime elects to be notified of changes in the confinement status of a convicted criminal offender; and to record the election by the victim or witness of their desire to be notified about subsequent changes in inmate status.

ROUTINE USES: None.

DISCLOSURE: Voluntary; however, failure to provide identifying information will prevent the corrections facility from notifying victim or witness of change in a criminal offender's status.

**SECTION I - ADMINISTRATIVE INFORMATION**

Installation Victory Base City Baghdad State Iraq APO AE 09342

Incident Number \_\_\_\_\_ Organizational Identifier (ORI) \_\_\_\_\_

**SECTION II - CERTIFICATION OF NO VICTIM OR WITNESS**

(Complete this section only if there are no victims or witnesses who are entitled to notification under the Victim's Rights and Restitution Act of 1990, and DoD Instruction 1030.2.)

As a representative for the Government in the court-martial case of United States v. \_\_\_\_\_  
(Name of accused)(Last, first, middle initial)

\_\_\_\_\_ convened by \_\_\_\_\_  
(Social Security Number) Court-martial convening order number, date, and issuing command)

I certify that this case does not involve a victim or witness entitled to receive information about the confinement status of the defendant as required by the Victim's Rights and Restitution Act of 1990 (Public Law 101-647; 104 Stat. 4820).

\_\_\_\_\_  
(Signature of person certifying) (Typed name (Last, first))  
\_\_\_\_\_  
(Date) YYYYMMDD (Grade and title)

**SECTION III - CERTIFICATION OF ADVICE TO VICTIM(S) AND WITNESS(ES)**

(Complete this section when there are victims or witnesses entitled to notification.)

I certify that on this date I personally notified the victim(s) and witness(es) in the court-martial case of United States v. \_\_\_\_\_  
FREDERICK, Ivan L., II (b)(6) z (b)(7)(C) -2  
(Name of accused)(Last, first, middle initial) (Social Security Number)

Convened by \_\_\_\_\_  
CMCO number 1, HQ, III Corps, dated 14 Jan 04; as amended by CMCO number 3, same HQ, dated 08 March 2004.  
Court-martial convening order number, date, and issuing command)

whose sentence included confinement, of their right under the Victim's Rights and Restitution Act of 1990 (Public Law 101-647, 104 Stat. 4820), to receive information about the status of the inmate, to include length of sentence, anticipated earliest release date, likely place of confinement, the possibility of transfer, and the right to receive notification of a new place of confinement. I advised the possibility of parole or clemency with an explanation of these terms. Additionally, I advised of the right to prior notification of the inmate's parole hearings, release from confinement, escape and death. I advised that to receive notification of the inmate's transfer, parole hearings, and release from confinement, the victim or witness must provide the information required in Section IV of this form. I advised all victims and witnesses that if they elect to terminate or reinstate notifications, or if they change their address listed above, they must contact the Military Service Central Repository listed in Section V.

\_\_\_\_\_  
(Signature of person certifying) (Typed name (Last, first))  
20041021 MAJ, Trial Counsel  
(Date) YYYYMMDD (Grade and title)

**SECTION IV - ELECTION TO BE NOTIFIED**

The victim(s) and witness(es) listed below have elected the right to receive information about changes in the status of the inmate by initialing the "Yes" block. If the inmate is transferred, they understand that they will be notified of the address of the new confinement facility. They also understand that if they move or their telephone number changes, they must notify the confinement facility of the new address or telephone numbers in order to be notified.

**LIST ALL VICTIMS AND WITNESSES INVOLVED IN THE CASE.** (Indicate whether a victim or witness by entering "V" or "W" in the appropriate column. Those who elect to be notified of inmate status changes should initial in the "Yes" column; otherwise initial the "No" column.)

NAME (Last, First, Middle Initial)	ADDRESS (Street, Apartment No., City, State, ZIP Code)	TELEPHONE NUMBER (Include Area Code)	V OR W	NOTIFY	
				YES	NO
[REDACTED]	[REDACTED]	[REDACTED]	V		X
1SG [REDACTED]	[REDACTED]	[REDACTED]	W		X
Cpt [REDACTED]	[REDACTED]	[REDACTED]	W		X
[REDACTED]	[REDACTED]	[REDACTED]	W		X
[REDACTED]	[REDACTED]	[REDACTED]	W		X
Dr [REDACTED]	[REDACTED]	[REDACTED]	W		X
[REDACTED]	[REDACTED]	[REDACTED]	W		X
Dr [REDACTED]	[REDACTED]	[REDACTED]	W		X

(b)(6) - 2; (b)(7)(C) - 2

(b)(6) - (4); (b)(7)(C) - 4

**SECTION V - DISTRIBUTION**

ADDRESSES (Include 9-digit ZIP Code and telephone number.)

**MILITARY SERVICE CENTRA REPOSITORY**  
 HQDA, ODOS, G-3  
 ATTN: DAMO-ODL (Ms. Sylvia Mitchell)  
 400 Army Pentagon  
 Washington, DC 20310-0400  
 (703) 695-8872 / 9329

**LOCAL CONFINEMENT FACILITY** (name and address)

**LAW ENFORCEMENT/SPECIAL INVESTIGATION**

**VICTIM/WITNESS** (Individual will receive a copy with all other victim/witness addresses blacked out.)

**CONFINEMENT ORDER**

<b>1. PERSON TO BE CONFINED</b>		<b>2. DATE (YYYYMMDD)</b>	
a. NAME (Last, First, Middle) FREDERICK, IVAN L. II		b. SSN <i>66-2, 62K-2</i> [REDACTED] 20041021	
c. BRANCH OF SERVICE US Army	d. GRADE SSG/E6	e. MILITARY ORGANIZATION (From): HHC, 16th MP BDE (ABN), III Corps, Victory Base, Iraq APO AE 09342	
<b>TYPE OF CONFINEMENT</b>			
a. PRE-TRIAL <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		b. RESULT OF NJP <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	
c. RESULT OF COURT MARTIAL: <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES			
TYPE: <input type="checkbox"/> SCM <input type="checkbox"/> SPCM <input checked="" type="checkbox"/> GCM <input type="checkbox"/> VACATED SUSPENSION			
4. OFFENSES/CHARGES OF UCMJ ARTICLES VIOLATED: Art 81 (Conspiracy) X 2; Art 92 (Dereliction of Duty); Art 93 (Cruelty and Maltreatment) X 5; Art 128 (Assault) X 3; Art 134 (Indecent Acts)			
5. SENTENCE ADJUDGED: To be confined for eight (8) years; to be reduced to the grade of Private (E-1); to forfeit all pay and allowances; and to be discharged from the service with a dishonorable discharge.			b. ADJUDGED DATE (YYYYMMDD): 20041021
6. IF THE SENTENCE IS DEFERRED, THE DATE DEFERMENT IS TERMINATED: N/A			
7. PERSON DIRECTING CONFINEMENT-			
8. TYPED NAME, GRADE AND TITLE: [REDACTED] CPT, JA		b. SIGNATURE [REDACTED]	c. DATE (YYYYMMDD) 20041021
d. TIME 1752			
8.a. NAME, GRADE, TITLE OF LEGAL REVIEW AND APPROVAL: [REDACTED], MAJ, JA, Trial Counsel		b. SIGNATURE: [REDACTED]	c. DATE (YYYYMMDD) 20041021
<b>MEDICAL CERTIFICATE</b>			
9a. The above named inmate was examined by me at _____ on _____ and found to be <input type="checkbox"/> Fit <input type="checkbox"/> Unfit <small>(Time) (YYYYMMDD)</small>			
for confinement. I certify that from this examination the execution of the foregoing sentence to confinement <input type="checkbox"/> will <input type="checkbox"/> will not produce serious injury to the inmate's health.			
b. The following irregularities were noted during the examination (if none, so state):		<b>SEE ATTACHED</b>	
c. HIV Test administered on (YYYYMMDD): _____			
d. Pregnancy test administered on (YYYYMMDD): _____ <input type="checkbox"/> N/A			
<b>10. EXAMINER</b>			
a. TYPED NAME, GRADE, AND TITLE: *Medical exam / prescreening is attached	b. SIGNATURE	c. DATE (YYYYMMDD)	d. TIME
<b>RECEIPT FOR INMATE</b>			
11.a. THE INMATE NAMED ABOVE HAS BEEN RECEIVED FOR CONFINEMENT AT: _____ <small>(Facility Name and Location)</small>			
ON _____ AND TIME: _____ <small>(YYYYMMDD) (Time)</small>			
b. PERSON RECEIVING FOR INMATE TYPED NAME, GRADE AND TITLE:	c. SIGNATURE:	d. DATE (YYYYMMDD)	e. TIME

*56-2, 62K-2*

DD Form 2707, Confinement Order, con't., United States v. FREDERICK, Ivan L. II

- a. SM is not a suspected narcotics user.
- b. SM is not a suspected homosexual.
- c. SM is not pending elimination under the provisions of AR 635-200 or service component directive(s).
- d. SM does have required clothing.
- e. SM shall not be returned to unit in the event of hostilities.

[REDACTED]

(b)(6) 2 -  
(b)(7)(C) - 2

MAJ, JA  
Trial Counsel

018140

20041129

**DEPARTMENT OF THE ARMY REPORT OF RESULT OF TRIAL**

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

**TO: Commander, Headquarters, III Corps, Victory Base, Iraq, APO AE 09342**

1. Notification under R.C.M. 1101 and AR 27-10, paragraph 5-30 is hereby given in the case of the United States v. Staff Sergeant Ivan L. Frederick II, [REDACTED] Headquarters and Headquarters Company, 16th Military Police Brigade (Airborne), APO AE 09342. (b)(6)z - (b)(7)(c) - 2

2. Trial by General court-martial on 21 October 2004, at Baghdad, Iraq, convened by: CMCO Number 1, HQ, III Corps, US Army, Victory Base, Iraq, dated 14 January 2004, as amended by CMCO Number 3, HQ, III Corps, US Army, Victory Base, Iraq, dated 08 March 2004.

3. Summary of offenses, pleas, and findings:

CH	ART UCMJ	SPEC	BRIEF DESCRIPTION OF OFFENSES(S)	PLEA	FINDING
I	81	1	Conspiracy to maltreat (on 25 OCT 03)	NG	NG
		2	Conspiracy to maltreat (on NOV 03)	G*	G
II	92	The	Dereliction of duty (20 OCT 03 - 1 DEC 03)	G	G
III	93	1	Maltreatment of detainee (8 NOV 04) MRE Box	G*	G
		2	Maltreatment of detainee (8 NOV 04) pyramid	G*	G
		3	Maltreatment of detainee (8 NOV 04) masturbate	G*	G
		4	Maltreatment of detainee (8 NOV 04) sit on	G	G
		5	Maltreatment of detainee (8 NOV 04) punching	NG	NG
IV	128	1	Assault of detainee (8 NOV 04) jumping on	NG*	NG*
		2	Assault of detainee (8 NOV 04) stomping on hands and feet	NG	NG
		3	Assault to produce grievous bodily harm (8 NOV 04)	G	G*
II	134	The	Indecent Acts (on 8 NOV 04)	G	G

4. SENTENCE: (COL [REDACTED]) To be confined for ten (10) years; to be reduced to the grade of Private (E-1); to forfeit all pay and allowances; and to be discharged from the service with a dishonorable discharge. (b)(6) - 2; (b)(7)(c) - 2

5. Date sentence adjudged and effective date of any forfeiture or reduction in grade (YYYYMMDD): 20041021.  
(See UCMJ Articles 57-58b and R.C.M. 1101.) 20041104.

6. Contents of pretrial agreement concerning sentence, if any: Attached  
\* Annotates pleas on offer to plead guilty dated 12 July 2004

7. Number of days of presentence confinement, if any: N/A.

8. Number of days of judge-ordered administrative credit under Article 13, or for presentence confinement or restriction found tantamount to confinement, if any: 20 Days.

9. Total presentence confinement credit toward post-trial confinement: None.

10. Name(s) and SSN(s) of companion accused or co-accused, if any: SPC CRUZ, Armin J., [REDACTED]; SGT DAVIS, Javal S., [REDACTED]; SPC GRANER, Charles A. Jr., [REDACTED]; SPC AMBUHL, Megan M., [REDACTED]; SPC HARMAN, Sabrina D., [REDACTED]; SPC SIVITS, Jeremy C., [REDACTED]; PFC ENGLAND, Lyndie R., [REDACTED]. (b)(6) - 2; (b)(7)(c) - 2

11. DNA processing IAW 10 U.S.C. § 1565 is (not) required.

12. Conviction(s) do(es) require sex offender registration IAW 42 U.S.C. § 14071.

CF: Unit Commander SJA TDS (b)(6) - 4 MJ Post-trial  
Confinement Facility SPCMA CID (b)(6) - 4 Supporting Finance Activity

MJ: COL [REDACTED] (b)(6)z, (b)(7)c2 DC: Mr. [REDACTED] and CPT [REDACTED] (b)(6)z, (b)(7)(c)z  
TC: MAJ [REDACTED] CR: SFC [REDACTED]

NAME	[REDACTED]	SIGNATURE	[REDACTED]
RANK	MAJ	BRANCH OF SERVICE	JA

PRETRIAL ALLIED PAPERS

018142

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

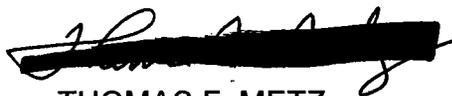
AFZF-CG

MAY 5 2004

MEMORANDUM FOR Staff Judge Advocate

SUBJECT: Disposition of the Court-Martial Charges Preferred Against Staff Sergeant  
Ivan L. Frederick, II [REDACTED] (b)(6)-2; (b)(7)(C) 2

The recommendations of the Staff Judge Advocate are approved. The attached charges and their specifications are referred to a general court-martial convened by Court-Martial Convening Order Number 1, dated 14 January 2004, as amended by Court-Martial Convening Order Number 3, dated 8 March 2004.



THOMAS F. METZ  
Lieutenant General, USA  
Commanding

018143

AFZF-JA-MJ

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

SUBJECT: Advice on Disposition of the Court-Martial Charges Preferred Against Staff Sergeant Ivan L. Frederick, II [REDACTED]—ACTION MEMORANDUM

(b)(6)-2; (b)(7)(C) - 2

1. Purpose. To forward for disposition, in accordance with Rule for Court-Martial (RCM) 407, the court-martial charges against Staff Sergeant Ivan L. Frederick, II, Headquarters and Headquarters Company, 16th MP Brigade (Airborne), III Corps, Victory Base, Iraq.

2. Recommendations.

a. *Chain of Command.* As reflected on the attached court-martial charges transmittal memoranda, the soldier's company and brigade commanders recommend referral of the charges to a general court-martial.

b. *Article 32 Investigation:* As reflected in the Investigating Officer's Report, the Article 32 Investigating Officer recommends referral of the charges to a general court-martial. The Investigating Officer recommended that the Specification of Charge VI be amended to read that the accused committed an indecent act by "influencing/instigating a group of detainees to begin masturbating, or attempting to masturbate, and setting the detainees in sexually provocative positions." The Specification currently reads that the accused watched detainees masturbating or attempting to masturbate.

c. *Staff Judge Advocate.* I recommend you refer the attached charges and their specifications to a general court-martial, pursuant to RCM 601, and refer the case to trial by Court-Martial Convening Order Number 1, dated 14 January 2004, as amended by Court-Martial Convening Order Number 3, dated 8 March 2004.

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

a. The specifications allege offenses under the UCMJ;

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

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

4. POC is CPT [REDACTED] at DSN [REDACTED]

(b)(6) 2 - (b) 7 2(c)

Encls

1. Charge Sheet
2. Transmittal Memoranda
3. Article 32 Investigation Report
4. Allied Documents

[REDACTED]  
COL, JA  
Staff Judge Advocate

5 May 2004

(b)(6) 2 -  
(b) 7 - 2(c)

018144

CERTIFICATE

I HEREBY CERTIFY THAT I AM THE CURRENT CUSTODIAN OF THE PERSONNEL RECORDS OF STAFF SERGEANT IVAN L. FREDERICK II, SSN (b)(6) 2 - (b)(7)(C) - 2 HHC 16<sup>TH</sup> MP BDE (ABN) VICTORY BASE, IRAQ APO AE 09342, AND THAT THE ATTACHED PERSONNEL QUALIFICATION RECORD & DA FORM 2-1 IS A TRUE AND ACCURATE COPY AS MAINTAINED, IN ACCORDANCE WITH REGULATION, IN THE SOLDIER'S RECORDS.

(b)(6) 2 - (b)(7)(C) - 2  
2LT, AG  
Brigade Adjutant

original

018145

AFZA-AP-CO

27 Apr 04

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

SUBJECT: Transmittal of Court-Martial Charges - United States v. Staff Sergeant Ivan L. Frederick II

1. I have reviewed the enclosed court-martial charges and Article 3(b) Investigating Officer Report pertaining to Staff Sergeant Ivan L. Frederick II, [REDACTED], HHC, 16<sup>th</sup> MP BDE (ABN), Victory Base, Iraq APO AE 09342.

(b)(6)-2; (b)(7)(C)-2

2. I recommend that the charges and specifications be referred to trial by

- a. \_\_\_ Summary Court-Martial.
- b. \_\_\_ Special Court-Martial.
- c. \_\_\_ Special Court-Martial (empowered to adjudge a Bad Conduct Discharge).
- d.  General Court-Martial.

[REDACTED]

(b)(6)1 - (b)(7)(C) -1

Encls  
as

COL, MP  
Commanding

018146

AFZA-AP-HHC

20 MARCH 2004

MEMORANDUM THRU Commander, 16<sup>th</sup> Military Police Brigade (Airborne), Victory Base, Iraq APO AE 09342

FOR Commander, III Corps, Camp Victory, Iraq APO AE 09342

SUBJECT: Transmittal of Court-Martial Charges – United States v. Staff Sergeant Ivan L. Frederick II

1. Pursuant to R.C.M. 401(c)(2) and 402(2), Manual for Court-Martial, United States (2002 Edition), forwarded herewith are the court-martial charges pertaining to Staff Sergeant Ivan L. Frederick II, [REDACTED] HHC, 16<sup>th</sup> MP Bde (Abn), Victory Base, Iraq APO AE 09342.

(b)(6)-2; (b)(7)(C)-2

2. Documentary evidence upon which the charges are based is enclosed.
3. All material witnesses are expected to be available at the time of trial.
4. There is no evidence of previous court-martial conviction(s).
5. I recommend that the charges and specifications be referred to trial by
  - a. \_\_\_ Summary Court-Martial
  - b. \_\_\_ Special Court-Martial
  - c. \_\_\_ Special Court-Martial (empowered to adjudge a Bad Conduct Discharge)
  - d. PFE General Court-Martial.

Encls  
as

[REDACTED]

CPT, MP  
Commanding

(b)(6)-1; (b)(7)(C)-1

018147

7 May 2004

MEMORANDUM FOR RECORD

SUBJECT: Service of Referral of Charges in the Case of United State v. Staff Sergeant Ivan L. Frederick II

1. I hereby acknowledge that the charges against me were referred to General Court-Martial on 5 May 04. I further acknowledge receipt of said Charge Sheet, Continuation Page(s), and Court-Martial Convening Order(s).
2. I understand that I should contact my Trial Defense Attorney as soon as possible to further discuss my case.

*Ivan L. Frederick II*  
IVAN L. FREDERICK II  
SSG, USA  
07 MAY 04  
(date)

018148

AFZA-AP-HHC

MEMORANDUM FOR RECORD

SUBJECT: Service of Preferral of Charges in the case of United States v. Staff Sergeant Ivan L. Frederick II

1. I hereby acknowledge that the charges against me were read and preferred on this 20 day of MAR, at 2224 hours. Further, I hereby acknowledge receipt of said charge sheet(s) and allied papers.
2. I further understand that I have an appointment at Trial Defense Services, ph: (302) 838-1100, trailer B12, Camp Victory, Iraq, at \_\_\_\_\_, \_\_\_\_\_.

*Ivan L. Frederick II*  
IVAN L. FREDERICK II  
SSG, USA

018149

The Article 32 investigation is contained as Appellate Exhibit VIII in the record of trial.

018150

DD Form 457, Investigating Officer's Report," pursuant to Article 32

HEADQUARTERS, 99TH REGIONAL SUPPORT COMMAND  
99 SOLDIERS LANE  
CORAOPOLIS, PENNSYLVANIA 15108-2550

ORDERS M-052-0058

21 February 2003

FREDERICK IVAN LOWELL II  
HC 2 BOX 235  
BUCKINGHAM, VA 23921-0000

(b)(6)-2; (b)(7)(C)-2  
[REDACTED] SSG  
0372 MP CO COMBAT SUPPORT (WTEZAA)  
CUMBERLAND, MD 21502-5605

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

Report to: 0372 MP CO COMBAT SUPPORT (WTEZAA), 14418 MCMULLEN HWY SW,  
CUMBERLAND, MD 21502-5605 Report On: 24 February 2003  
Report to: Fort Lee, Building P6008, Fort Lee, VA 23801 Report On: 27 February  
2003

Period of active duty: 365 Days  
Purpose: Mobilization for ENDURING FREEDOM  
Mobilization category code: "V"  
Additional instructions: 01, 02, 03, 04, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15,  
16, 17

FOR ARMY USE

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

Accounting classification:

2132010.0000 01-1100 P1W1C00 11\*\*/12\*\* VFRE F3203 5570 S99999  
2132010.0000 01-1100 P2W2C00 11\*\*/12\*\* VFRE F3203 5570 S99999  
2132020.0000 01-1100 P135198 21\*\*/22\*\*/25\*\* VFRE F3203 5570 S99999

Sex: M

MDC: PM

PMOS/AOC/ASI/LIC: 95B30

HOR: BUCKINGHAM, VA

PEBD: 17 February 1984

DOR: 16 November 1998

Security clearance: SECRET

Comp: USAR

Format: 165

FOR THE COMMANDER:

\*\*\*\*\*  
\* OFFICIAL \*  
\* 99TH REGIONAL SUPPORT COMMAND \*  
\*\*\*\*\*  
JEROME P. BAUER  
MPO  
MILITARY PERSONNEL OFFICER

DISTRIBUTION: M1 PLUS  
INDIVIDUAL CONCERNED (4)  
FAMILY ASSISTANCE OFFICER (1)  
MPRC  
FILE (ORIGINAL + 1)

018151



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

REPLY TO  
ATTENTION OF

ORDERS 72-2

12 March 2004

(b)(6)-2; (b)(7)(C) 2  
FREDERICK, IVAN L., SSG, 95B30, [REDACTED] 372<sup>nd</sup> Military Police Company  
(WTEZAA), APO AE 09342

You are attached or released from attachment.

Attached to: HHC, 16<sup>th</sup> Military Police Brigade (Airborne) (WFP6AA) APO AE 09342  
Reporting Date: 12 March 2004  
Period: Indefinite  
Movement Designator Code: NZ03  
Additional Instructions: You are attached for personnel service support to include  
Awards and Decorations, UCMJ, and all other forms of personnel and legal  
administration support.  
Format: 745

[REDACTED] (b)(6)1-(b)(7)(C)-1  
CPT, MP  
Brigade Adjutant

DISTRIBUTION:  
CDR, 372<sup>nd</sup> MP CO (1)  
CDR, HHC, 16<sup>th</sup> MP BDE (ABN) (1)  
File (1)  
Individual (3)

018152

# REPORT TO SUSPEND FAVORABLE PERSONNEL ACTIONS (FLAG)

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

## SECTION I - ADMINISTRATIVE DATA

1. NAME (Last, First, MI) FREDERICK, IVAN L.	2. SSN (b)(6) 2-705-2	3. RANK E-6/SSG
4. <input checked="" type="checkbox"/> On active duty <input type="checkbox"/> Not on active duty <input type="checkbox"/> On ADT	5. ETS/ESA/MRD	
6. UNIT ASSIGNED AND ARMY MAJOR COMMAND 372ND MP CO 99TH RRC	7. STATION (Geographical location) 372ND MP CO ABU GHRAIB, IRAQ APO AE 09335	
8. PSC CONTROLLING FLAGGING ACTION AND TELEPHONE NUMBER MSG [REDACTED] CPL [REDACTED]    (b)(6)-2; (b)(7)(c)-2		
9. THIS ACTION IS TO: <input checked="" type="checkbox"/> Initiate a flag (Sections II and V only) <input type="checkbox"/> Transfer a flag (Sections III and V only) <input type="checkbox"/> Remove flag (Sections IV and V only)		

## SECTION II - INITIATE A FLAG

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

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

## SECTION III - TRANSFER A FLAG

11.  A FLAG IS TRANSFERED FOR THE FOLLOWING REASON:

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

## SECTION IV - REMOVE A FLAG

12.  A FLAG IS REMOVED, EFFECTIVE \_\_\_\_\_ FOR THE FOLLOWING REASON:

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

## SECTION V - AUTHENTICATION

DISTRIBUTION  
1 - Unit Commander    1 - F&AO  
1 - PSC    1 - Commander, gaining unit (transfer flag only)

NAME, RANK, TITLE AND ORGANIZATION [REDACTED] LT, MP Commanding 372nd Military Police Company	SIGNATURE [REDACTED]	DATE 25 Jan 04
---	-------------------------	-------------------

(b)(6)-1; (b)(7)(c)-1

018153

# CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY (b)(6)-2-7(c)-2

1. NAME (Last, First, Middle) FREDERICK, IVAN LOWELL, II	2. DEPARTMENT, COMPONENT AND BRANCH ARMY/USAR	3. SOCIAL SECURITY NUMBER [REDACTED]
---	--	---

4.a GRADE, RATE, OR RANK SSG	4.b PAY GRADE E6	5. DATE OF BIRTH (YYYYMMDD) 19661003	6. RESERVE OBLIG. TERM. DATE Year 0000 Month 00 Day 0
---------------------------------	---------------------	---	--

7.a PLACE OF ENTRY INTO ACTIVE DUTY NEW KENSINGTON, PA	7.b HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known) BUCKINGHAM, VA 23921
---	--

8.a LAST DUTY ASSIGNMENT AND MAJOR COMMAND 307TH MILITARY POLICE COMPANY FC	8.b STATION WHERE SEPARATED FORT DIX, NJ 08640-5089
--	--

9. COMMAND TO WHICH TRANSFERRED 307TH MILITARY POLICE COMPANY (CS), NEW KENSINGTON, PA 15068	10. SGLI COVERAGE <input type="checkbox"/> None Amount: \$ 250,000.00
---	--

11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.) 95B30 00 MILITARY POLICE--6 YRS-8 MOS//12B30 00 COMBAT ENGINEER--17 YRS-10 MOS//NOTHING FOLLOWS	12. RECORD OF SERVICE
	Year(s)    Month(s)    Day(s)
	a. Date entered AD This Period    2001    09    30
	b. Separation Date This Period    2002    08    20
	c. Net Active Service This Period    0000    10    21
	d. Total Prior Active Service    SEE    BLOCK    #18
	e. Total Prior Inactive Service    SEE    BLOCK    #18
	f. Foreign Service    0000    00    00
	g. Sea Service    0000    00    00
	h. Effective Date of Pay Grade    1998    11    16

13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)  
 ARMY ACHIEVEMENT MEDAL (3RD AWARD)//ARMY RESERVE COMPONENTS ACHIEVEMENT MEDAL (4TH AWARD)  
 //NATIONAL DEFENSE SERVICE MEDAL (2ND AWARD)//ARMED FORCES RESERVE MEDAL W/"M" DEVICE//ARMED FORCES RESERVE MEDAL//NONCOMMISSIONED OFFICER'S PROFESSIONAL DEVELOPMENT RIBBON//ARMY SERVICE RIBBON//ARMY RESERVE COMPONENTS OVERSEAS TRAINING RIBBON (2ND AWARD)//NOTHING FOLLOWS

14. MILITARY EDUCATION (Course title, number of weeks and month and year completed)  
 NONE//NOTHING FOLLOWS

15.a MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERAN'S EDUCATIONAL ASSISTANCE PROGRAM	Yes	No	15.b HIGH SCHOOL GRADUATE OR EQUIVALENT	Yes	No	16. DAYS ACCRUED LEAVE PAID
		X		X		.5

17. MEMBER WAS PROVIDED A COMPLETE DENTAL EXAM AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION Yes  No

18. REMARKS  
 DATA HEREIN SUBJECT TO COMPUTER MATCHING WITHIN DOD OR WITH OTHER AGENCIES FOR VERIFICATION PURPOSES AND DETERMINING ELIGIBILITY OR COMPLIANCE FOR FEDERAL BENEFITS//SEPARATED FROM SERVICE ON TEMPORARY RECORDS AND SOLDIER'S AFFIDAVIT//DD FORM 215 WILL BE ISSUED TO PROVIDE MISSING INFORMATION//INDIVIDUAL COMPLETED PERIOD FOR WHICH ORDERED TO ACTIVE DUTY FOR PURPOSE OF POST SERVICE BENEFITS AND ENTITLEMENTS//ORDERED TO ACTIVE DUTY IN SUPPORT OF OPERATION NOBLE EAGLE LAW 10 USC 12302//MEMBER HAS COMPLETED FIRST FULL TERM OF SERVICE//ORDERED TO ACTIVE DUTY IN RESPONSE TO THE WORLD TRADE CENTER AND PENTAGON ATTACKS//NOTHING FOLLOWS

19.a MAILING ADDRESS AFTER SEPARATION (Include Zip Code) [REDACTED] 23921 <span style="float: right;">(b)(6)-2, 7(c)-2</span>	19.b NEAREST RELATIVE (Name and address, include Zip Code) [REDACTED] BUCKINGHAM, VA 23921 <span style="float: right;">(b)(6)-3, 7(c)-3</span>
--	---

20. MEMBER REQUESTS COPY 6 BE SENT TO: VA DIR OF VET AFFAIRS  Yes  No

21. SIGNATURE OF MEMBER BEING SEPARATED [REDACTED]	22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title and signature) [REDACTED] SR, DIR, MILITARY PERSONNEL <span style="float: right;">(b)(6)-3, 7(c)-3</span>
---	--

SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

23. TYPE OF SEPARATION RELEASE FROM ACTIVE DUTY	24. CHARACTER OF SERVICE (Include upgrades) HONORABLE
25. SEPARATION AUTHORITY AR 635-200, CHAP 4	26. SEPARATION CODE LBI
28. NARRATIVE REASON FOR SEPARATION COMPLETION OF REQUIRED ACTIVE SERVICE	27. REENTRY CODE NA
29. DATES OF TIME LOST DURING THIS PERIOD NONE	30. MEMBER REQUESTS COPY 4 [REDACTED] Initials

018154



DEPARTMENT OF THE ARMY  
 HEADQUARTERS  
 16<sup>th</sup> MILITARY POLICE BRIGADE (AIRBORNE)  
 VICTORY BASE, IRAQ APO AE 09342

REPLY TO  
 ATTENTION OF:

AFZA-AP-JA

12 May 2004

MEMORANDUM FOR Commander, U.S. Army Human Resources Command,  
 ATTN: AHRC-ARE, 1 Reserve Way, St. Louis, Missouri 63132-5200

SUBJECT: Request for Certified Official Military Personnel File

1. Under the provisions of AR 600-8-104, paragraph 2-5, request **2 (two)** certified copies of the Performance, Service and Restricted Fiche of the Official Military Personnel File (OMPF) of the following soldiers:

- a. SSG FREDERICK, Ivan L. II; SSN: [REDACTED] HHC, 16<sup>th</sup> MP BDE (ABN), Iraq
- b. SGT DAVIS, Javal S.; SSN: [REDACTED] HHC, 16<sup>th</sup> MP BDE (ABN), Iraq
- (b)(6)-2;  
(b)(7)(c)-2  
c. SPC GRANER, Charles A. Jr; SSN: [REDACTED]; HHC, 16<sup>th</sup> MP BDE (ABN), Iraq
- d. SPC AMBUHL, Megan M.; SSN: [REDACTED] HHC, 16<sup>th</sup> MP BDE (ABN), Iraq
- e. SPC HARMAN, Sabrina D.; SSN: [REDACTED] HHC, 16<sup>th</sup> MP BDE (ABN), Iraq
- f. SPC SIVITS, Jeremy C.; SSN: [REDACTED] HHC, 16<sup>th</sup> MP BDE (ABN), Iraq
- g. PFC ENGLAND, Lynndie R.; SSN: [REDACTED] HHC, 16<sup>th</sup> MP BDE (ABN)(REAR), FBNC

2. These soldiers are pending trial by court-martial; and the records requested will be used in presenting the Government's Case. Please forward **(2) two certified copies** of the complete OMPF to the following address:

16<sup>th</sup> MP BDE (ABN) ATTN: SGT [REDACTED] (b)(6)-2; 7(c) - 2  
 VICTORY BASE, IRAQ  
 APO AE 09342

3. The POC for this request is the undersigned at DNVT [REDACTED] or [REDACTED] army.mil.

[REDACTED] (b)(6)-2; 7(c)-2  
 SGT, USA  
 Paralegal

018155

DEPARTMENT OF THE ARMY  
U.S. ARMY HUMAN RESOURCES COMMAND  
200 STOVALL STREET  
ALEXANDRIA, VA 22332-0470

AHRC-PDZ-RC  
ORDERS A-10-410340

13 OCT 2004

FREDERICK IVAN LOWELL II  
HC 2 BOX 235  
BUCKINGHAM VA 23921

SSG [REDACTED]  
WTEZAA

(b)(6) 2-7622

YOU ARE ORDERED TO ACTIVE DUTY IN THE GRADE OF RANK SHOWN ABOVE FOR THE PERIOD SHOWN IN ACTIVE DUTY COMMITMENT BELOW. YOU WILL PROCEED FROM YOUR CURRENT LOCATION IN TIME TO REPORT ON THE DATE SHOWN BELOW.

RPT TO: 16 MP BDE FWD WFP6A1 FT BRAGG NC 28310  
REPORT DATE/TIME: 12 SEP 2004 BETWEEN 0800 AND 1700 HRS.  
ASG TO: 16 MP BDE FWD WFP6A1 FT BRAGG NC 28310  
DUTY AT: VICTORY BASE IRAQ APO AE 09342  
ACTIVE DUTY COMMITMENT: 6 MONTHS  
PURPOSE: UCMJ PROCESSING. END DATE: 09 MAR 2005

ADDITIONAL INSTRUCTIONS: RELIEVED FROM RESERVE COMPONENT ASSIGNMENT ON THE DAY PRECEDING EFFECTIVE DATE OF ORDER. INDIVIDUAL WILL BE RETAINED ON ACTIVE DUTY IN HIS OR HER CURRENT GRADE AND IS INCLUDED IN THE ACTIVE ARMY END STRENGTH. ACCESSION INTO DJMS-AC WILL REFLECT A SVC COMP OF "R". SHIPMENT OF HHG AND TRAVEL OF DEP NOT APPLICABLE. SPECIAL EXCEPTION NOT TO ISSUE A DD FORM 214 TO SOLDIERS THAT ARE IN 12301, 12302 OR 12304 STATUS THAT REVERT TO R.C.M. 202 STATUS. A DD 214 WILL BE ISSUED UPON COMPLETION OF R.C.M. SERVICE. ALL PREVIOUS ACTIVE DUTY SERVICE PRIOR TO R.C.M. STATUS WILL BE ACCOUNTED FOR IN BLOCK 18 OF THE DD 214. EARLY RELEASE AUTHORIZED.

FOR ARMY USE: AUTHORITY: R.C.M. 202(C), AR 27-10 CH 21, AR 135-200 (7-4)  
ACCT CLAS: NONE

MDC: 1AE4 HOR: SAME AS SNL PMOS/SSI: 31B3  
SEX: M PPN: N/A COMP: USAR RES GR: SSG  
DORRES: 16 NOV 1998 PEBD: 17 FEB 1984 SCTY CL: NONE

FORMAT: 460  
BY ORDER OF THE SECRETARY OF THE ARMY:

\*\*\*\*\*  
\* AHRC \*  
\* OFFICIAL \*  
\*\*\*\*\*

RODGER L. SHUTTLEWORTH  
CW5, AG  
CHIEF, RC SPT SVC DIV

DISTRIBUTION: 1 SOLDIER  
1 16 MP BDE FWD FT BRAGG NC 28310  
1 372 MP CO COMBAT SUP 14418 MCMULLEN HWY SW CUMBERLAND MD 21502 5605

018156