

COURT-MARTIAL RECORD

NAME BURKE, RICKY A. SGT

SSN _____

ACTIONS CODED:

ASSIGNED TO:

INITIAL _____

PANEL _____

ACCA _____

~~EXAM. DIV.~~ ✓

FINAL _____

ACCA CLERK OF COURT

COMPANION(S):

RETURN THIS FILE TO:

OFFICE OF THE CLERK OF COURT

US ARMY JUDICIARY

901 NORTH STUART STREET, SUITE 1200

ARLINGTON, VA 22203-1837

VOL II OF IV VOL(S)

ARMY 20051072

SUMMARIZED
RECORD OF TRIAL¹

(and accompanying papers)

BURKE, Ricky A.
(NAME: Last, First Middle Initial)

(Social Security Number)

Sergeant
(Rank)

B Btry, 1-623rd FA,
503rd MP Bn (Abn),
18th MP Bde
(Unit/Command Name)

US Army

(Branch of Service)

Camp Victory, Baghdad, Iraq

(Station or Ship)

BY
GENERAL COURT-MARTIAL

CONVENED BY COMMANDING GENERAL
(Title of Convening Authority)

HQ, Multi-National Corps - Iraq
(Unit/Command of Convening Authority)

TRIED AT

LSA Anaconda, Balad, Iraq and
Camp Victory, Baghdad, Iraq
(Place or Places of Trial)

ON

26 June and 1-3 September 2005
(Date or Dates of Trial)

ACTION OF JUDGE ADVOCATE OR GENERAL COURT-MARTIAL CONVENING AUTHORITY (SPCM)/JAG(GCM)
(RCM 1111 and 1112, MCM, 1984)

| | | |
|--|---|------------------------|
| UNIT/COMMAND NAME | LOCATION OF JUDGE ADVOCATE OR GENERAL COURT-MARTIAL CONVENING AUTHORITY | DATE RECORD RECEIVED |
| ACTION | DATE | REMARKS |
| FINAL DISPOSITION: Findings & sentence, as approved by convening authority, correct in law and fact, to file | | COMPANION CASES: None. |
| OR Findings and sentence, as modified or corrected (see remarks), correct in law and fact, to file | | |
| Acquittal or sentence set aside (see remarks); to file | | |
| Copies of CMO disposed of in accordance with departmental regulations | | |
| JUDGE ADVOCATE OR LAW SPECIALIST | | |
| SIGNATURE | RANK | DATE SIGNED |
| | | |

PERMANENT

RECEIVED
CLERK OF COURT

¹ See inside back cover for instructions as to use, preparation and arrangement.

PRETRIAL ALLIED PAPERS

JUN 06 2005

MEMORANDUM FOR Commander, Multi-National Corps - Iraq, Baghdad, Iraq
APO AE 09342

SUBJECT: Advice on Disposition of Court-Martial Charges -
U.S. v. Burke

1. I have reviewed the attached charge, its specification, the Article 32 Investigation, and allied papers in the case of Sergeant Ricky A. Burke, _____, B Battery, 1-623d Field Artillery, 503d Military Police Battalion (Airborne), 18th Military Police Brigade, Camp Victory, Iraq APO AE 09342, and render this advice in accordance with the provisions of Article 34, Uniform Code of Military Justice, and R.C.M. 406, Manual for Courts-Martial, 2002.

2. Legal Conclusions. After reviewing the charge, its specification, the Article 32 Investigation and allied papers, I have reached the following legal conclusions:

a. The charge and its specification allege offenses under the Uniform Code of Military Justice.

b. The allegations in the charge and its specification is warranted by the evidence.

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

3. Chain of Command Recommendations. All subordinate commanders recommend a general court-martial.

4. Article 32 Investigation Officer Recommendations. Recommends a General Court-Martial.

5. Staff Judge Advocate Recommendation. I recommend that you refer the charges and their specifications, to a general court-martial by the members listed in Court-Martial Convening Order Number 3, this headquarters, dated 21 March 2005.



MALINDA E. DUNN
COL, JA
Staff Judge Advocate

Encls
as

DIRECTION OF THE CONVENING AUTHORITY:

The recommendation of the Staff Judge Advocate is approved.

JUN 06 2005



JOHN R. VINES
Lieutenant General, USA
Commanding

DEPARTMENT OF THE ARMY
Headquarters, 18th Military Police Brigade
Camp Victory, Iraq
APO AE 09342

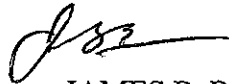
AETV-MP

Date: 23 April 2008

MEMORANDUM FOR Commanding General, Multi-National Corps-Iraq, Camp Victory, Iraq,
APO AE 09342

SUBJECT: Transmittal of Court-Martial Charges in the Case of SGT Ricky A. Burke, B
Battery, 1-623d Field Artillery, 503d Military Police Battalion, 18th Military Police Brigade,
APO AE 09342

1. The attached court-martial charges against the above-named accused are forwarded in accordance with R.C.M. 401(c)(2), MCM, for appropriate disposition.
2. Summaries of expected testimony and documentary evidence upon which the charges and personal data of the accused are attached.
3. I forward the attached court-martial charges without recommendation as to disposition because I am a potential witness in the case.



JAMES B. BROWN
COL, MP
Commanding

PERSONNEL QUALIFICATION RECORD LISTED
PCN GPVS-1790

Unit Name: BTRY B 1ST BN 623D FA (MLRS)

UPC: P4TB0

PREPARED: 29 Oct 2004

SECTION A - PERSONAL DATA

1. MPC: F
2. SSN:
3. NAME: BURKE RICKY ALLEN JR
4. SEX: M

SECTION B - GRADE DATA

1. PAY GRADE: E4
2. GR ABBR CODE: SPC
3. EFF DATE GR: 20020415
4. DOR-RES: 20020415
5. GR CH WVR: YY
6. GR HOW ACQ-CODE: U

SECTION C - ORGANIZATION DATA

1. PREV UPC: P4TC0
2. CURR UPC: P4TB0
3. DY POSN: 13M10
4. POSN NBR EX IND: YYYY
5. DY POSN QUAL CODE: Q
6. ASG LOSS RSN CODE/DATE: A3 20000918
7. CURR ORGN IDENT CODE: B
8. AUTH LINE DSG: 04
9. AUTH PARA DSG: 208
10. ATCH CODE:
11. TYPE ATCH:
12. UPC ATCH:
13. EFF DATE OF ATCH:
14. EXP DATE OF ATCH:
15. CURR PROC:
16. DATE CURR PROC:
17. INIT PROC: EBAX
18. DATE INIT PROC: 20000918
19. EXP RDY RES OBLIG DATE: 20060917
20. EXP STAT MIL OBLIG DATE: 20080917

SECTION D - PAY DATA

1. PEBD: 20000918
2. ADD WH TAX: 00
3. ST TAX CODE: KY
4. NB EXEM: 00
5. SGLI ELEC CODE: Q
6. CURR AERO RATING: Z
7. IPAY NBR ONE/DATE:
8. IPAY NBR TWO/DATE:
9. TNG PAY RET CAT: A
10. BENEF STAT WVR/CODE:
11. DAYS WVD:
12. ATCH PR NBR:
13. CURR INC TERM STAT/DATE: A 20000918
14. SP PAY:

SECTION E - TRAINING/EDUCATION DATA

1. TNG STAT/DATE: C 20010321
2. CIV EDUC LEVEL: K
3. MAJ SUBJ COL EDU: XXX
4. ROTC IDENT: YY0
5. FIRST LANG IDENT: YY

SECTION F - INDIVIDUAL DATA

1. DOB: 19791121
2. RACE POP GRP: C
3. ETH GRP: X
4. STREET ADDRESS: RT 3 BOX 7090
5. ADDR CITY: MONTICELLO
6. STATE/ZIP: KY 42633
7. MARITAL STATUS: M
8. DEPN NBR: 3
9. NBR MO ACT FED SVC: 005
10. REL DENOMINATION: MM
11. BREAK MIL STATUS: Y
12. DATE INIT ENT RC: 20000918
13. CIV EMPL: 8
14. CIV OCCUPATION: 999
15. RET WAIVER:
16. DATE END EVAL PD:
17. PRIV ACT DSP REC:
18. LOCAL DATA PERS:
19. QUAL SEL RET IDENT:

FOR OFFICIAL USE ONLY - PRIVACY ACT DATA

PERSONNEL QUALIFICATION RECORD - LISTED
PCN GPVS-1790

Unit Name: BTRY B 1ST BN 623D FA (MLRS)

UPC: P4TB0

PREPARED: 29 Oct 2004

NAME: BURKE RICKY ALLEN JR

SSN:

SECTION G - ENLISTED UNIQUE DATA

| | | | |
|------------------------------|----------|-------------------------|----------|
| 1. ETS DATE: | 20060917 | 13. PMOSD ENLD: | 13M10 |
| 2. SRC ORIG ENLISTMT INDCTN: | 2 | 14. ASI PMOSD ENLD: | |
| 3. ENLSTMT OPT PD: | 5 | 15. PMOSD ENLD BAS ACQ: | A |
| 4. TERM ENL RES: | 072 | 16. SMOSD ENLD: | |
| 5. CUM MOS EXT: | | 17. ASI SMOSD ENLD: | |
| 6. MOS CURR EXT: | | 18. AMOSD ENLD: | |
| 7. PRO PAY STAT/DATE: | | 19. ASI AMOSD ENLD: | |
| 8. AFQT PCTL: | 056 | 20. BONUS ENT: | A |
| 9. AFQT SCORE GROUP: | C | 21. BONUS AUTH: | Q |
| 10. NCO EDUCATION: | 0 | 22. DATE BONUS: | 20000918 |
| 11. NCO EDUCATION ENROLLED: | 0 | 23. BONUS MOS: | 13M |
| 12. ENLSTMT WVR COND 1: | Z9 | 24. NBR BONUS: | |

SECTION H - FULL TIME DATA

| | |
|-------------------|------|
| 1. ACT STAT PROG: | Y |
| 2. TECH SVC CODE: | N |
| 3. CIV GRADE: | YYYY |

SECTION I - SECURITY DATA

| | | |
|------------------------|---|----------|
| 1. SCTY INVES STAT: | G | |
| 2. SCTY CLNC/DATE: | F | 20040913 |
| 3. CTZSP STAT US ORGN: | A | |

SECTION J - PHYSICAL DATA

| | |
|------------------------|--------|
| 1. YR MO LAST PHYS EX: | 200009 |
| 2. PHY PRFL SER: | 111111 |
| 3. WT IND: | 192 |
| 4. HT IND: | 74 |
| 5. PHY CAT: | A |

SECTION K - RETIREMENT DATA

| | |
|------------------------|------|
| 1. RYE DATE: | 0917 |
| 2. CUM RET PT: | |
| 3. SUR BEN OPT: | |
| 4. SUR BEN ELEC COV: | |
| 5. SUR BEN ELEC STAT: | |
| 6. DATE SBP ELEC STAT: | |
| 7. TOT YR SAT SVC RET: | |
| 8. TWENTY YR CER STAT: | Y |

SECTION L - ARMY PHYSICAL FITNESS DATA

| | |
|----------------------|--------|
| 1. APFT RESULT: | P |
| 2. APFT SCORE: | 182 |
| 3. YR/MO TEST: | 200408 |
| 4. RSNINELIG APFT: | |
| 5. PREV APFT RESULT: | P |
| 6. PREV APFT SCORE: | 182 |
| 7. PREV YR/MO TEST: | 200408 |

SECTION M - BAQ DATA

| | |
|------------------|----------|
| 1. BAQ DEP TYPE: | A |
| 2. DOB PRIM DEP: | |
| 3. BAQ EFF DATE: | 20030213 |
| 4. BAQ STATUS: | 1 |

FOR OFFICIAL USE ONLY - PRIVACY ACT DATA

RECORD OF PROCEEDINGS

2005 1072

CERTIFICATE IN LIEU OF RECEIPT

Camp Victory, Iraq
(Place)

5 December 2005
(Date)

I certify that on this date a copy of the record of trial in the case of U.S. v SGT Ricky Burke was transmitted (mailed) to the accused, SGT Ricky Burke, at PO Box 1169, Monticello, KY 42633, that the receipt of the accused had not been received on the date this record was forwarded to the convening authority. The receipt of the accused will be forwarded as soon as it is received.

Stephen A. N. H.
(Signature of Chief, Criminal Law)

7599 8357 5000 0822 2002

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OFFICIAL USE

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| Certified Fee | 2.30 |
| Return Receipt Fee (Endorsement Required) | — |
| Restricted Delivery Fee (Endorsement Required) | — |
| Total Postage & Fees | \$ 14.90 |

Post Office Here

Sent To SGT Ricky Burke
 Street, Apt. No., or PO Box No. PO Box 1169
 City, State, ZIP+4 Monticello, KY 42633

PS Form 3800, June 2002 See Reverse for Instructions

PROCEEDINGS OF A GENERAL COURT-MARTIAL

1
2
3 The military judge called the Article 39(a) session to order at 1406,
4 26 June 2005, at Camp Victory, Baghdad, Iraq, pursuant to the
5 following orders:
6

7
8 Court-Martial Convening Order Number 3, Headquarters, Multi-National
9 Corps - Iraq, dated 21 March 2005, as amended by Court-Martial
10 Convening Order Number 10, same Headquarters, dated 26 August 2005.
11

12 **END OF PAGE**

DEPARTMENT OF THE ARMY
Headquarters, Multi-National Corps - Iraq
Baghdad, Iraq APO AE 09342


COURT-MARTIAL CONVENING ORDER
NUMBER 10

26 August 2005

The members listed in paragraph 1 below are detailed to the general court-martial convened by Court-Martial Convening Order Number 3, this headquarters, dated 21 March 2005, vice the members listed in paragraph 2 below for the trial of Sergeant Ricky A. Burke, B Battery, 1-623d Field Artillery, 503d Military Police Battalion (Airborne), 18th Military Police Brigade, Camp Victory, Iraq APO AE 09342, only:

1. RODGERS, Tilisha, 1LT, HHC, XVIII ABC
BERRY, Richard W., SFC, HHD, 720th MP Bn
DAVID, Vickie J., SFC, HHSC, 250th MI Bn
2. SEAMANDS, Thomas, COL, HHC, XVIII ABC
GREAU, Donald T., MSG, HHC, 18th MP Bde
BROWN, Michelle R., MSG, HHC, 44th MEDCOM

BY COMMAND OF LIEUTENANT GENERAL VINES:



MATTHEW P. RUZICKA
MAJ, JA
Chief, Military Justice

DISTRIBUTION:
Record of Trial (5)
Ea indiv conc (1)

DEPARTMENT OF THE ARMY
Headquarters, Multi-National Corps - Iraq
Baghdad, Iraq APO AE 09342

COURT-MARTIAL CONVENING ORDER
NUMBER 3

21 March 2005

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

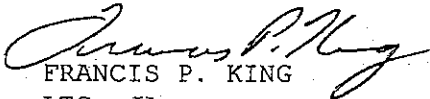
COL HENRY FRANKE, CM, HHC, XVIII ABC
COL BRYAN W. ELLIS, SC, HHC, 35th Sig Bde
COL THOMAS SEAMANDS, AG, HHC, XVIII Abn Corps
COL JONES, CASPER P., III, MS, 44th MEDCOM
COL BILLY BUCKNER, IN, HHC, XVIII Abn Corps
LTC KELVIN OWENS, MS, 44th MEDCOM
LTC NANETTE GALLANT, QM, HHC, XVIII ABC
LTC ALLEN J. DARDEN, MS, 44th MEDCOM
LTC RAYMOND DINGLE, MS, 44th MEDCOM
LTC ELIZABETH COBLE, MI, 525th MI Bde
MAJ PATTY REIM, TC, 525th MI Bde
CPT JOYCE C. CRAIG, CM, 44th MEDCOM

In the event that the accused submits a request pursuant to Article 25(c), UCMJ, that court will be composed of the following officers and enlisted members.

COL HENRY FRANKE, CM, HHC, XVIII ABC
COL THOMAS SEAMANDS, AG, HHC, XVIII Abn Corps
LTC NANETTE GALLANT, QM, HHC, XVIII ABC
LTC ALLEN J. DARDEN, MS, 44th MEDCOM
MAJ PATTY REIM, TC, 525th MI Bde
CPT JOYCE C. CRAIG, CM, 44th MEDCOM
SGM STEPHEN STOTT, HHC, XVIII ABC
SGM ALPHONSO R. EPPS, JR., HQ, 20th Eng Bde
SGM BERNARD HARPER, HQ, 20th Eng Bde
SGM JAY L. BROWN, JR., HHC, 44th MEDCOM
MSG DONALD T. GREAU, HHC, 18th MP Bde
MSG MICHELLE R. BROWN, HHC, 44th MEDCOM

BY COMMAND OF LIEUTENANT GENERAL VINES:

DISTRIBUTION:
Record of Trial (5)
Ea indiv conc (1)


FRANCIS P. KING
LTC, JA
Chief, Criminal Law Division

1
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21

PERSONS PRESENT

COLONEL PATRICK J. REINERT, MILITARY JUDGE;
CAPTAIN STEPHAN NOLTEN, TRIAL COUNSEL;
CAPTAIN WILLIAM BROWN, DEFENSE COUNSEL.

PERSONS ABSENT

Members.

The accused, Sergeant Ricky A. Burke, U.S. Army, was present in court.

The detailed reporter, Sergeant First Class Cherie Barnett, had previously been sworn.

The accused was arraigned on the following Charge and its Specification:

THE CHARGE SHEET FOLLOWS AND IS NOT A NUMBERED PAGE.

END OF PAGE

CHARGE SHEET

I. PERSONAL DATA

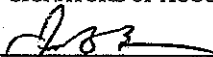
| | | | | |
|---|--|---|-------------------------------------|--------------------------------------|
| 1. NAME OF ACCUSED (<i>Last, First, MI</i>) BURKE, Ricky A. | | 2. SSN | 3. GRADE OR RANK SGT | 4. PAY GRADE E-5 |
| 5. UNIT OR ORGANIZATION B Battery, 1-623d Field Artillery 503d Military Police Battalion (Abn), 18th Military Police Brigade, APO AE 09342 | | | 6. CURRENT SERVICE | |
| | | | a. INITIAL DATE 18 Sep 00 | b. TERM 6 years |
| 7. PAY PER MONTH | | 8. NATURE OF RESTRAINT OF ACCUSED | | 9. DATE(S) IMPOSED N/A |
| a. BASIC | b. SEA/FOREIGN DUTY | c. TOTAL | | |
| \$1887.70 \$2060.70 | \$100.00 \$100.00 | \$1977.10 \$2160.70 <i>clerk</i> | | |

II. CHARGES AND SPECIFICATIONS

10. CHARGE THE VIOLATION OF THE UCMJ, ARTICLE 80.

THE SPECIFICATION: In that Sergeant Ricky Allen Burke, U.S. Army, did, at or near Salman Pak, Iraq, on or about 20 March 2005, attempt with premeditation to murder Hadi Saleh Khalid Al Ujuhishi by means of shooting him in the head with a firearm.

III. PREFERRAL

| | | |
|---|------------------------|--|
| 11a. NAME OF ACCUSER (<i>Last, First, MI</i>) BROWN, James B. | b. GRADE O-6 | c. ORGANIZATION OF ACCUSER 18th Military Police Brigade |
| d. SIGNATURE OF ACCUSER  | | e. DATE 23 April 2005 |

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 23rd day of April, 2005, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

MATTHEW W. SHEPHERD
Typed Name of Officer

HHC, 18th Military Police Brigade
Organization of Officer

O-3
Grade

Art. 136(b)(1), UCMJ
*Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be a commissioned officer)*



Signature

12. On 23 April 2005, the accused was informed of the charges against him/her and of the name(s) of The accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

JAMES B. BROWN
Typed Name of Immediate Commander

18th Military Police Brigade
Organization of Immediate Commander

O-6
Grade


Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13. The sworn charges were received at 1120 hours, 23 April, 2005 at Headquarters, 18th Military
Designation of Command or
Police Brigade, APO AE 09342

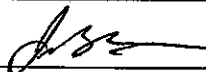
Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE ¹

JAMES B. BROWN
Typed Name of Officer

Commander
Official Capacity of Officer Signing

O-6
Grade


Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b. PLACE

c. DATE (YYYYMMDD)

HQ, Multi-National Corps -- Iraq

Camp Victory, Iraq

6 June 2005

Referred for trial to the General court-martial convened by Court-Martial Convening Order Number 3,

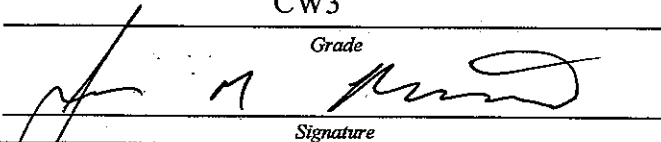
dated, 21 March, 2005, subject to the following instructions: ²

By Command Of Lieutenant General Vines
Command or Order

JAMES M. BERTOTTI
Typed Name of Officer

Legal Administrator
Official Capacity of Officer Signing

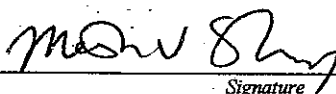
CW3
Grade


Signature

15. On 9 JUN, 2005, I (caused to be) served a copy hereof on (each of) the above named accused.

MATTHEW W. SHEPHERD
Typed Name of Trial Counsel

CPT, JA
Grade or Rank of Trial Counsel


Signature

FOOTNOTES: 1 -- When an appropriate commander signs personally, inapplicable words are stricken.
2 -- See R.C.M. 401(e) regarding instructions. If none, so state.

1 The defense requested to defer forum selection and motions during the
2 current session of court.

3
4 The military judge stated that defense's request to defer forum
5 selection and motions was approved and would be deferred to a later
6 session of court.

7
8 The accused pled as follows:

9
10 **To the Charge and its Specification: Not Guilty.**

11
12 The session recessed at 1417, 26 June 2005.

13
14 The session was called to order at 0855, 01 September 2005.

15
16 The trial counsel stated that all parties present at the last session
17 were once again present, with the following exceptions.

18
19 Captain Stephan Nolten is now the assistant trial counsel and Captain
20 Matthew Shepherd is the trial counsel. Captain William Brown is now
21 the assistant defense counsel and Captain Chris Krafchek is the
22 defense counsel. Sergeant Major John E. Davis replaced Sergeant First
23 Class Barnett as the detailed reporter and he had previously been
24 sworn.

25
26 The members were absent.

27
28 Captain Shepherd and Captain Krafchek announced their detailing and
29 qualifications.

30
31 The military judge advised the accused of his right to be tried before
32 a court-martial composed of members including, at the accused's
33 request, at least one-third enlisted persons and that, if the accused
34 were found guilty of any offense, the members would determine any
35 sentence to be adjudged.

36
37 The military judge further advised the accused that he could request
38 in writing, or orally in the court-martial, trial before military
39 judge alone and, if such a request were approved, the military judge
40 would determine the accused's guilt or innocence and, if the accused
41 were found guilty, the military judge would determine any sentence to
42 be adjudged.

1 The accused indicated that he fully understood the difference between
2 a trial by military judge alone and by a court-martial composed of
3 members, and he stated he desired to be tried by a court-martial
4 composed of members, including one-third enlisted members.
5
6 The defense made a motion to suppress tangible evidence which was
7 marked as Appellate Exhibit IV. The prosecution's response was marked
8 as Appellate Exhibit V.
9
10 The defense counsel presented argument on the motion.
11
12 The trial counsel presented argument on the motion.
13
14 The military judge denied the defense's motion to suppress tangible
15 evidence.
16
17 The defense made a motion for appropriate relief and evidentiary
18 ruling regarding the viewing of a video of an insurgent beheading.
19 The motion for appropriate relief and evidentiary ruling to view the
20 video was marked as Appellate Exhibit II. The prosecution's response
21 was marked as Appellate Exhibit VIII.
22
23 The session recessed at 1015, 01 September 2005.
24
25 The session was called to order at 1026, 01 September 2005.
26
27 The military judge stated that all parties present at the last session
28 were once again present. The members were absent.
29
30 The defense counsel presented argument on the motion.
31
32 The trial counsel presented argument on the motion.
33
34 The military judge reserved ruling on the defense's motion for
35 appropriate relief and evidentiary ruling regarding the viewing of the
36 video.
37
38 The session recessed at 1045, 01 September 2005.
39
40 The session was called to order at 1048, 01 September 2005.
41
42 The trial counsel stated that all parties present at the last session
43 were once again present. The members were absent.
44

1 The military judge stated that the record was not clear if the accused
2 had formally entered his plea at the arraignment. Further, the
3 military judge stated that for the record he would ask the accused to
4 enter his plea at this time.

5
6 The accused pled as follows:

7
8 **To the Charge and its Specification: Not Guilty.**

9
10 The session adjourned at 1050, 01 September 2005.

11
12

END OF PAGE

1 The court-martial was called to order at 1217, 01 September 2005
2 pursuant to the orders previously inserted in the record.

3
4 PERSONS PRESENT

5
6 COLONEL PATRICK J. REINERT, MILITARY JUDGE;
7 CAPTAIN MATTHEW SHEPHERD, TRIAL COUNSEL;
8 CAPTAIN STEPHAN NOLTEN, ASSISTANT TRIAL COUNSEL;
9 CAPTAIN CHRIS KRAFCHER, DEFENSE COUNSEL;
10 CAPTAIN WILLIAM BROWN, ASSISTANT DEFENSE COUNSEL;
11 COLONEL HENRY FRANKE,
12 LIEUTENANT COLONEL NANETTE GALLANT,
13 LIEUTENANT COLONEL ALLAN DARDEN,
14 MAJOR PATTY REIM,
15 CAPTAIN JOYCE CRAIG,
16 FIRST LIEUTENANT TILISHA RODGERS,
17 SERGEANT MAJOR JAY BROWN,
18 SERGEANT MAJOR ALPHONSO EPPS,
19 SERGEANT MAJOR BERNARD HARPER,
20 SERGEANT MAJOR STEPHEN STOTT,
21 SERGEANT FIRST CLASS RICHARD BERRY,
22 SERGEANT FIRST CLASS VICKIE DAVID, MEMBERS.

23
24 PERSONS ABSENT

25
26 None.

27
28 The accused, Sergeant Ricky A. Burke, U.S. Army, was present in court.

29
30 The detailed reporter, Sergeant Major John E. Davis, U.S. Army, had
31 previously been sworn.

32
33 The members were sworn.

34
35 The court-martial was assembled.

36
37 The military judge, assistant trial counsel, and the assistant
38 defense counsel conducted general voir dire of all the court-martial
39 members.

40
41 The court-martial recessed at 1315, 01 September 2005.

42
43 The court-martial was called to order at 1325, 01 September 2005.
44

1 The military judge stated that all parties present at the last session
2 were once again present. The members were absent.
3
4 The assistant trial counsel and the assistant defense counsel
5 conducted individual voir dire of Lieutenant Colonel Darden,
6 Lieutenant Colonel Gallant, Captain Craig, First Lieutenant Rodgers,
7 Sergeant First Class Berry, and Sergeant Major Brown.
8
9 The military judge granted the defense's challenge of Sergeant First
10 Class Berry for cause.
11
12 The military judge granted the prosecution's peremptory challenge of
13 Lieutenant Gallant.
14
15 The military judge granted the defense's peremptory challenge of
16 Colonel Franke.
17
18 The challenged members were excused by the military judge.
19
20 The court-martial recessed at 1356, 01 September 2005.
21
22 The court-martial was called to order at 1414, 01 September 2005.
23
24 The military judge stated that all parties present at the last session
25 were once again present. The members were also present.
26
27 The trial on the merits began.
28
29 The court-martial recessed at 1931, 01 September 2005.
30
31 The court-martial was called to order at 0905, 02 September 2005.
32
33 The military judge stated that all parties present at the last session
34 were once again present. The members were also present.
35
36 The trial on the merits continued.
37
38 The court-martial recessed at 1636, 02 September 2005.
39
40 The court-martial was called to order at 0907, 03 September 2005.
41 The military judge stated that all parties present at the last session
42 were once again present. The members were also present.
43
44 The trial on the merits continued.

AUTHENTICATION OF RECORD OF TRIAL

in the case of

BURKE, Ricky A., SGT, _____, B Btry, 1-623rd FA, 503rd MP
(Abn), 18th MP Bde, APO AE 09342

I received the completed record of trial for review and authentic
on 25 OCT 2005, and completed my examination on
25 OCT 05 2005.

Patrick J. Reinert
PATRICK J. REINERT
COL, JA
Military Judge
25 OCT 2005

I received the completed record of trial for review in the foreg
case on 16 October 2005 and completed my examination
16 October 2005.

William Brown
WILLIAM BROWN
CPT, JA
Defense Counsel
16 October 2005

U N I T E D S T A T E S)

v.)

Sergeant Ricky A. Burke)

B Battery, 1-623rd FA,)

503rd MP Bn (Airborne),)

18th MP Bde, APO AE 09342)

NOTICE of PROPOSED

CORRECTION

3 January 2006

BACKGROUND. On 21 December 2005, it came to the trial court's attention, through receipt of an e-mail from the Office of the Clerk of Court of the Army Court of Criminal Appeals that the record of trial at page 8, line 5 reflects a 17 September 2005 adjournment date. This was a typographical error. The proposed correction is made to remedy a portion of the record believed to be incomplete or defective, pursuant to R.C.M. 1104(d)(2).

NOTICE TO PARTIES. The parties, through counsel, are hereby notified of the proposed correction to the record of trial, and permitted to respond prior to authentication of the certificate.

ACKNOWLEDGEMENT and RESPONSE. Not later than 31 January 2006 counsel for the parties will file with this Court an acknowledgement of receipt of this NOTICE, along with any desired response.

Pat J Reinert
PATRICK J. REINERT
COL, JA
Military Judge

Atch: Certificate of Correction

I acknowledge receipt of this certificate. I have reviewed my trial notes as well as the court reporter's notes and agree with the attached certificate of correction. I will file no further response.

WILLIAM BROWN
CPT, JA
Defense Counsel

Date: _____

Steph Noltén

STÉPHAN NOLTEN
CPT, JA
Assistant Trial Counsel

Date: 4 January 2006

UNITED STATES)

v.)

Sergeant Ricky A. Burke)

B Battery, 1-623rd FA,)
503rd MP Bn (Airborne),)
18th MP Bde, APO AE 09342)

CERTIFICATE OF


CORRECTION

3 January 2006

1. The record of trial in the above case, which was tried by the general court-martial convened by Court-Martial Convening Order #3, Headquarters, Multi-National Corps - Iraq, dated 21 March 2005, as amended by Court-Martial Convening Order Number 10, same Headquarters, dated 26 August 2005 at Camp Victory, Iraq on 26 June, and 1 through 3 September 2005, is corrected as follows: by changing page 8, line 5, to read "[The court-martial adjourned at 1521, 03 September 2005.]"

2. This correction is made because of a typographical error not noticed prior to authentication of the record of trial.

3. This certificate of correction is issued in compliance with the procedural requirements of R.C.M. 1104(d)(2). A copy of this certificate, bearing the accused's receipt, or proof of service upon the accused, will be forwarded to the Army Court of Criminal Appeals for further review.


PATRICK J. REINERT
COL, JA
Military Judge

I received a copy of this certificate this 65 day of Jan 2006.


RICKY A. BURKE
SGT, US Army
Accused

Page 2 of 2 pages.

1
2
3
4
5
6
7
8
9

After trial on the merits, the accused was found as follows:

Of The Charge and Specification: Not Guilty.

The court-martial adjourned at 1521, 17 September 2005.

END OF PAGE

**PROSECUTION EXHIBITS
ADMITTED**

OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837

THE RECORD OF TRIAL HAS BEEN REVIEWED FOR RELEASE UNDER THE PROVISIONS OF THE FREEDOM OF INFORMATION ACT. THE DOCUMENT[S] DESCRIBED AS FOLLOWS HAVE BEEN REMOVED FROM THIS COPY OF THE RECORD BECAUSE THE RELEASE WOULD BE IN VIOLATION OF THE DOD FREEDOM OF INFORMATION ACT PROGRAM, DOD 5400.7-R, EXEMPTION (b) (6) 5 U.S.C. 552 (b) 6):

Exhibit

Not Suitable for the Photocopier

OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837

THE RECORD OF TRIAL HAS BEEN REVIEWED FOR RELEASE UNDER THE PROVISIONS OF THE FREEDOM OF INFORMATION ACT. THE DOCUMENT[S] DESCRIBED AS FOLLOWS HAVE BEEN REMOVED FROM THIS COPY OF THE RECORD BECAUSE THE RELEASE WOULD BE IN VIOLATION OF THE DOD FREEDOM OF INFORMATION ACT PROGRAM, DOD 5400.7-R, EXEMPTION (b) (6) 5. U.S.C. 552 (b) 6):

Photographs


DEPARTMENT OF THE ARMY
11TH MILITARY POLICE BATTALION (CID)
CAMP VICTORY, IRAQ
APO AE 09342

1 September 2005

MEMORANDUM FOR Record

SUBJECT: Attestation of Authenticity

1. I am the Evidence Custodian for the 11th Military Police Battalion (CID) with responsibility for the storage of all evidence collected. I am also the custodian of all records of the collection of evidence, to include DA Form 4137. These records, including DA Form 4137's, are created as a part of the regularly conducted business as a regular practice of the 11th Military Police Battalion (CID).
2. I hereby certify that the attached DA Form 4137, Document Number 339-05, is a true and accurate copy of the original form, which is maintained in the files of the 11th Military Police Battalion (CID) in accordance with CIDR 195-1 and applicable Army regulations. The attached DA Form 4137 was made in the course of the regularly conducted activity and as part of the regular practice of the 11th Military Police Battalion and the entries in the record were made at or near the time of the transactions recorded by persons who had knowledge of each transaction.
3. POC for this memorandum is the undersigned at DSN: 3180822-2705.


STEPHEN GOLDEN
Special Agent
Evidence Custodian

PROSECUTION EXHIBIT 12 FOR ID

| EVIDENCE/PROPERTY CUSTODY DOCUMENT | | MPR/CID SEQUENCE NUMBER | | |
|--|-----------|--|---|--------------------------------------|
| For use of this form see AR 190-45 and AR 195-5; the proponent agency is US Army Criminal Investigation Command | | CRD REPORT/CID ROI NUMBER 36247 | | |
| RECEIVING ACTIVITY 48th MPDET (CID) (FWD) | | LOCATION CAMP VICTORY, Baghdad, IZ APO AE 09342 | | |
| NAME, GRADE AND TITLE OF PERSON FROM WHOM RECEIVED <input type="checkbox"/> OWNER <input checked="" type="checkbox"/> OTHER CRIME SCENE | | ADDRESS (Include Zip Code) N/A | | |
| LOCATION FROM WHERE OBTAINED Bank of irrigation Canal, vicinity of Grid MB 73586 62500, off of ASR DETROIT, Baghdad, IZ | | REASON OBTAINED EVIDENCE | | |
| | | TIME/DATE OBTAINED 1240, 6 APR 05 | | |
| ITEM NO. | QUANTITY | DESCRIPTION OF ARTICLES <small>(include model, serial number, condition and unusual marks or scratches)</small> | | |
| ✓ | 1 | shell casing, 5.56mm, bearing the manufacturer's stamp, "LC 90", placed in a padded, clean envelope which was sealed and marked for ID, "TDR, 1240, 6 APR 05". LAST ITEM | | |
| CHAIN OF CUSTODY | | | | |
| ITEM NO. | DATE | RELEASED BY | RECEIVED BY | PURPOSE OF CHANGE OF CUSTODY |
| 1 | 6 APR 05 | SIGNATURE NOT APPLICABLE NAME, GRADE OR TITLE CRIME SCENE | SIGNATURE NAME, GRADE OR TITLE SA Thomas D. Robinson | Evaluation AS Evidence |
| 1 | 7 Apr 05 | SIGNATURE NAME, GRADE OR TITLE SA Thomas D. Robinson | SIGNATURE NAME, GRADE OR TITLE SA STEPHEN D. GOLDEN | RECEIVED BY EVIDENCE CUSTODIAN |
| 1 | 10 APR 05 | SIGNATURE NAME, GRADE OR TITLE SA STEPHEN D. GOLDEN | SIGNATURE RB 679 749 514 US NAME, GRADE OR TITLE REGISTERED MAIL | FORWARDED TO USA CIL FOR EXAMINATION |
| 1 | 20 APR 05 | SIGNATURE RB 679 749 514 US NAME, GRADE OR TITLE REGISTERED MAIL | SIGNATURE NAME, GRADE OR TITLE MICHAEL E. BROOKS FIREARMS EXAMINER | FA FETAN |
| 1 | 20 APR 05 | SIGNATURE NAME, GRADE OR TITLE MICHAEL E. BROOKS FIREARMS EXAMINER | SIGNATURE REGISTERED MAIL # NAME, GRADE OR TITLE RA 532 896 110 US | RETURN TO SUBMITTER |

CHAIN OF CUSTODY (Continued)

| ITEM NO. | DATE | RELEASED BY | RECEIVED BY | PURPOSE OF CHANGE OF CUSTODY |
|----------|-----------|--|---|--------------------------------|
| 1 | 9 May 05 | SIGNATURE REGISTERED MAIL # | SIGNATURE <i>Brigg-Bobb</i> | RECEIVED BY EVIDENCE CUSTODIAN |
| | | NAME, GRADE OR TITLE RA 532 896 110 US | NAME, GRADE OR TITLE SA BRIGGON D. BOBB | |
| 1 | 16 Jun 05 | SIGNATURE <i>[Signature]</i> | SIGNATURE RA 851 058 094 US | FORWARDED FOR EXAMINATION |
| | | NAME, GRADE OR TITLE SA STEPHEN D. GOLDEN | NAME, GRADE OR TITLE REGISTERED MAIL | |
| 1 | 27 Aug 05 | SIGNATURE RA 912 908 000 US | SIGNATURE <i>[Signature]</i> | RECEIVED BY EVIDENCE CUSTODIAN |
| | | NAME, GRADE OR TITLE REGISTERED MAIL | NAME, GRADE OR TITLE SA STEPHEN D. GOLDEN | |
| 1 | 1 SEP 05 | SIGNATURE <i>[Signature]</i> | SIGNATURE <i>[Signature]</i> | RELEASED TO SJA |
| | | NAME, GRADE OR TITLE STEVEN GASKO, SA | NAME, GRADE OR TITLE Matthew Shepherd, CPT, SA | |
| | | SIGNATURE | SIGNATURE | |
| | | NAME, GRADE OR TITLE | NAME, GRADE OR TITLE | |
| | | SIGNATURE | SIGNATURE | |
| | | NAME, GRADE OR TITLE | NAME, GRADE OR TITLE | |
| | | SIGNATURE | SIGNATURE | |
| | | NAME, GRADE OR TITLE | NAME, GRADE OR TITLE | |

FINAL DISPOSAL ACTION

RELEASE TO OWNER OR OTHER (Name/Unit)

DESTROY

OTHER (Specify)

FINAL DISPOSAL AUTHORITY

ITEM(S) _____ ON THIS DOCUMENT, PERTAINING TO THE INVESTIGATION INVOLVING _____ (Grade)

(Name)

(Organization)

(IS) (ARE) NO LONGER

REQUIRED AS EVIDENCE AND MAY BE DISPOSED OF AS INDICATED ABOVE. (If article(s) must be retained, do not sign, but explain in separate correspondence.)

(Typed/Printed Name, Grade, Title)

(Signature)

(Date)

WITNESS TO DESTRUCTION OF EVIDENCE

THE ARTICLE(S) LISTED AT ITEM NUMBER(S) _____ (WAS) (WERE) DESTROYED BY THE EVIDENCE CUSTODIAN, IN MY PRESENCE, ON THE DATE INDICATED ABOVE.

(Typed/Printed Name, Organization)

(Signature)


DEPARTMENT OF THE ARMY
11TH MILITARY POLICE BATTALION (CID)
CAMP VICTORY, IRAQ
APO AE 09342

1 September 2005

MEMORANDUM FOR Record

SUBJECT: Attestation of Authenticity

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2. I hereby certify that the attached DA Form 4137, Document Number 351-05, is a true and accurate copy of the original form, which is maintained in the files of the 11th Military Police Battalion (CID) in accordance with CIDR 195-1 and applicable Army regulations. The attached DA Form 4137 was made in the course of the regularly conducted activity and as part of the regular practice of the 11th Military Police Battalion and the entries in the record were made at or near the time of the transactions recorded by persons who had knowledge of each transaction.
3. POC for this memorandum is the undersigned at DSN: 3180822-2705.


STEPHEN GOLDEN
Special Agent
Evidence Custodian

PROSECUTION EXHIBIT 13 FOR ID

| EVIDENCE/PROPERTY CUSTODY DOCUMENT | | MPR/CID SEQUENCE NUMBER | | |
|--|-----------|---|--|-------------------------------------|
| For use of this form see AR 190-45 and AR 195-5; the proponent agency is US Army Criminal Investigation Command | | CRD REPORT/CID ROI NUMBER 36247 | | |
| RECEIVING ACTIVITY 48th MP Det (CID) (FWD) | | LOCATION Camp Victory, Baghdad, IZ | | |
| NAME, GRADE AND TITLE OF PERSON FROM WHOM RECEIVED <input type="checkbox"/> OWNER <input checked="" type="checkbox"/> OTHER SGT Matthew T. Simpson 407-21-5806 | | ADDRESS (Include Zip Code) B BTRY, 11623 FA LSA Anaconda, Balad, IZ APO AE 09391 | | |
| LOCATION FROM WHERE OBTAINED From the hands of SGT. SIMPSON, Bldg 84, Camp Victory, IZ | | REASON OBTAINED Evidence | TIME/DATE OBTAINED 1005, 9 Apr 05 | |
| ITEM NO. | QUANTITY | DESCRIPTION OF ARTICLES (Include model, serial number, condition and unusual marks or scratches) | | |
| 1 | 1 | Rifle, m-4, serial number W077786, with sling, marked for ID, "TDR, 1005, 9 APR 05". LAST ITEM | | |
| CHAIN OF CUSTODY | | | | |
| ITEM NO. | DATE | RELEASED BY | RECEIVED BY | PURPOSE OF CHANGE OF CUSTODY |
| 1 | 9 APR 05 | SIGNATURE: Matthew T. Simpson NAME, GRADE OR TITLE: SGT Matthew T. SIMPSON | SIGNATURE: [Signature] NAME, GRADE OR TITLE: SA Thomas D. ROBINSON | Evaluation AS Evidence |
| 1 | 10 APR 05 | SIGNATURE: [Signature] NAME, GRADE OR TITLE: SA Thomas D. ROBINSON | SIGNATURE: [Signature] NAME, GRADE OR TITLE: STEPHEN GOLDEN, SA | RECEIVED BY EVIDENCE CUSTODIAN |
| 1 | 10 APR 05 | SIGNATURE: [Signature] NAME, GRADE OR TITLE: SA STEPHEN D. GOLDEN | SIGNATURE: RB 679 749 514 US REGISTERED MAIL | FORWARDED TO US MIL FOR EXAMINATION |
| 1 | 20 APR 05 | SIGNATURE: RB 679 749 514 US REGISTERED MAIL | SIGNATURE: MICHAEL E. BROOKS FIREARMS EXAMINER | FA EXAM |
| 1 | 20 APR 05 | SIGNATURE: [Signature] NAME, GRADE OR TITLE: MICHAEL E. BROOKS FIREARMS EXAMINER | SIGNATURE: [Signature] REGISTERED MAIL # NAME, GRADE OR TITLE: RA 532 896 110 US | RETURN TO SUBMITTER |

CHAIN OF CUSTODY (Continued)

| ITEM NO. | DATE | RELEASED BY | RECEIVED BY | PURPOSE OF CHANGE OF CUSTODY |
|----------|-----------|--|---|--------------------------------|
| 1 | 9 May 05 | SIGNATURE REGISTERED MAIL # | SIGNATURE <i>Boyd Bobb</i> | RECEIVED BY EVIDENCE CUSTODIAN |
| | | NAME, GRADE OR TITLE RA 532 896 11045 | NAME, GRADE OR TITLE SA BRIGGON D. BOBB | |
| 1 | 16 Jul 05 | SIGNATURE <i>Stephen D. Golden</i> | SIGNATURE <i>Stephen D. Golden</i> | FORWARDED FOR EXAMINATION |
| | | NAME, GRADE OR TITLE SA STEPHEN D. GOLDEN | NAME, GRADE OR TITLE RA 857 058 097 US REGISTERED MAIL | |
| 1 | 29 Aug 05 | SIGNATURE <i>Stephen D. Golden</i> | SIGNATURE <i>Stephen D. Golden</i> | RECEIVED BY EVIDENCE CUSTODIAN |
| | | NAME, GRADE OR TITLE REGISTERED MAIL | NAME, GRADE OR TITLE SA STEPHEN D. GOLDEN | |
| 1 | 1 SEP 05 | SIGNATURE <i>Stephen D. Golden</i> | SIGNATURE <i>Matthew W. Shepherd</i> | RELEASED TO SJA |
| | | NAME, GRADE OR TITLE STEPHEN GOLDEN | NAME, GRADE OR TITLE Matthew W. Shepherd CPT JA | |
| | | SIGNATURE | SIGNATURE | |
| | | NAME, GRADE OR TITLE | NAME, GRADE OR TITLE | |
| | | SIGNATURE | SIGNATURE | |
| | | NAME, GRADE OR TITLE | NAME, GRADE OR TITLE | |
| | | SIGNATURE | SIGNATURE | |
| | | NAME, GRADE OR TITLE | NAME, GRADE OR TITLE | |

FINAL DISPOSAL ACTION

RELEASE TO OWNER OR OTHER (Name / Unit) _____

DESTROY _____

OTHER (Specify) _____

FINAL DISPOSAL AUTHORITY

ITEM(S) _____ ON THIS DOCUMENT, PERTAINING TO THE INVESTIGATION INVOLVING _____ (Grade)

(Name)

(Organization)

(IS) (ARE) NO LONGER

REQUIRED AS EVIDENCE AND MAY BE DISPOSED OF AS INDICATED ABOVE. (If article(s) must be retained, do not sign, but explain in separate correspondence.)

(Typed / Printed Name, Grade, Title)

(Signature)

(Date)

WITNESS TO DESTRUCTION OF EVIDENCE

THE ARTICLE(S) LISTED AT ITEM NUMBER(S) _____ (WAS) (WERE) DESTROYED BY THE EVIDENCE CUSTODIAN, IN MY PRESENCE, ON THE DATE INDICATED ABOVE.

(Typed / Printed Name, Organization)

(Signature)

DEPARTMENT OF THE ARMY

CILA-BFA

1 August 2005

MEMORANDUM FOR WHOM IT MAY CONCERN

SUBJECT: Curriculum Vitae of Michael E. Brooks, _____ S,
Forensic Firearm and Toolmark Examiner,
U.S. Army Criminal Investigation Laboratory,
Forest Park, Georgia 30297-5122

1. Present Rank: GS-13
2. The following is a detailed listing of training completed with regard to firearm and toolmark examination, comparison and identification:
 - a. The one hundred four week resident Firearm and Toolmark Examiner course, U.S. Army Criminal Investigation Laboratory.
 - b. Sturm Ruger Armorers pistol, revolver and rifle course, Newport, NH.
 - c. Smith and Wesson Armorers pistol and revolver course, Springfield, MA.
 - d. Sig Sauer Armorers pistol course, Atlanta, GA.
 - e. Glock Armorers pistol course, Smyrna, GA.
 - f. Technical Surveillance Locksmithing course, Atlanta, GA.
 - g. Basic Surreptitious Locksmithing course, Atlanta, GA.
 - h. Remington Rifle and Shotgun course, Ilion, NY.
 - i. Foley-Belsaw Locksmithing course, Atlanta, GA.
 - j. Medeco Lock Course, Salem, VA.
 - k. Beretta automatic pistol course, Accokeek, MD.
 - l. Advanced Firearm and Toolmark Examination Course, Southwestern Institute of Forensic Sciences, Dallas, TX.

PROSECUTION EXHIBIT 14 FOR ID

- m. Opposing Forces Weapons course, APG, MD.
- n. Armed Forces Institute of Pathology (AFIP) Wound Ballistics course, Washington, D.C.
- o. 21st Annual AFTE Conference, Omaha, NE.
- p. 22nd Annual AFTE Conference, Houston, TX.
- q. 24th Annual AFTE Conference, Raleigh, N.C.
- r. 26th Annual AFTE Conference, San Diego, CA.
- s. 29th Annual AFTE Conference, Tampa, FL
- t. 30th Annual AFTE Conference, Williamsburg, VA
- u. Guest speaker at the 22nd AFTE conference. Oral presentation concerning Advanced Army Combat Rifles and Ammunition.
- v. Heckler and Koch submachinegun, rifle and pistol course Sterling, VA.
- w. Colt Firearms Armorers course, Raleigh, NC.
- x. Integrated Ballistics Identification Course (IBIS), Largo, FL
- y. Shooting Crime Scene Processing and Reconstruction Seminar, FBI Academy, Quantico, VA.
- z. FBI Gunpowder and Gunshot Residue Training Course, West Palm Beach, FL
- aa. Fracture Match Workshop, US Army Crime Lab

3. In addition to these school/courses, I have toured the following major firearms, knife and tool manufacturers within the United States in order to study their manufacturing techniques:

- a. Smith and Wesson, Springfield, MA.
- b. Sturm Ruger, Newport, NH and Prescott, AZ.
- c. Thompson Center Arms, Rochester, NH.
- d. Colt, Military and Commercial Plants, Hartford, CT.

- e. Dan Wesson Firearms, Palmer, MA.
- f. Remington, Utica, NY.
- g. US Repeating Arms (Winchester), New Haven, CT.
- h. Marlin, New Haven, CT.
- i. Savage Arms, Westfield, MA.
- j. Radford Army Ammunition Plant, Radford, VA.
- k. Medeco Lock Company, Salem, VA.
- l. Imperial Schrade, Ellenville, NY.
- m. Wilson Barrels, Branford, CT.
- n. Lake City Ammunition Plant, Kansas City, MO.
- o. American Lock Company, Chicago, IL.
- p. Master Lock Company, Milwaukee, WI.
- q. Remington Ammunition Plant, Lonoke, AR.
- r. Stanley Tools, Cheraw, S.C.
- s. Fabrique Nationale, Columbia, S.C.
- t. H.K. Porter Bolt Cutters, Statesboro, GA.
- u. Mossberg Manufacturing, Inc, North Haven, CT
- v. Heckler and Koch, Sterling, VA
- w. Beretta USA, Accokeek, MD

4. Professional Organizations:

- a. Distinguished Life Member of the Association of Firearms and Toolmark Examiners (AFTE).
- b. Former Associate Editor of the AFTE Journal.
- c. Member AFTE Certification Committee

5. The following is a detailed listing of law enforcement related training courses completed and experienced in the field:

- a. Basic Drug Enforcement course, Ft. McClellan, AL.
- b. Advanced Fraud Investigation course, Ft. McClellan, AL.
- c. Hostage Negotiation course, Ft. McClellan, AL.
- d. White Collar Crime course, Glynco, GA.
- e. CID Basic course, Ft. McClellan, AL.
- f. Warrant Officer Entry course, Ft. Sill, OK.
- g. Warrant Officer Advance course, Ft. McClellan, AL.
- h. Protective Service Activity course, Ft. McClellan, AL.
- I. Child Sexual Assault/Abuse Training Course, Anchorage, AK.
- j. Identi-Kit System Course, Anchorage, AK.
- k. Crime Scene Processing Course, Glynco, GA.
- l. Narcotics Identification Course, Alexandria, LA.
- m. FBI Sex Crimes Investigation Course, Ft Polk, LA.

6. The following is a list of my civilian education:

- a. Associate of Arts Degree in Police Science from the Gaston College, 1974.
- b. Bachelor's of Science Degree in Criminal Justice from UNC at Charlotte, 1976.

7. The following is a list of professional papers that I have written and conducted research on within this forensic science discipline:

- a. Advanced Army Combat Rifles
- b. Subcaliber Devices
- c. CMP Pistol

d. Photographing Bullets Through Comparison Microscope

8. Lectures:

a. Association of Firearms and Tool Mark Examiners,
Houston, TX 1991.

9. The following information is provided concerning testifying
at Military Court Martials:

a. While serving as a CID Special Agent in the field, I have
testified in excess of two hundred (200) military related
cases.

b. As a Firearm and Toolmark Examiner, I have testified as an
expert witness Fifty times.

c. I have never been prohibited from testifying due to lack of
qualifications or any other reasons.

d. I have also testified in numerous Federal and State courts
as a Firearm and Toolmark Examiner

10. Employment as a Firearm and Toolmark Examiner.

a. United States Army Criminal Investigation Laboratory,
Fort Gillem. From October 1989 to January 1997.

b. Southwestern Institute of Forensic Sciences, Dallas, TX.
From January 1997 to July 1997.

c. United States Army Criminal Investigation Laboratory,
Fort Gillem, GA. From August 1997 to Present.



FOR OFFICIAL USE ONLY - LAW ENFORCEMENT SENSITIVE

DEPARTMENT OF THE ARMY
US ARMY CRIMINAL INVESTIGATION LABORATORY
4553 N 2ND STREET
FOREST PARK, GA 30297-5122

CILA-FA

20 April 2005

MEMORANDUM FOR SPECIAL AGENT IN CHARGE, 48TH MILITARY POLICE
DETACHMENT, (CID) (FWD), 11TH MILITARY POLICE BATTALION, (CID)
(FWD), APO AE 09342

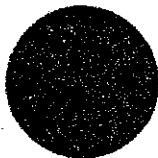
SUBJECT: Firearms Division - Final Report
USACIL Case Number 2005-CID131-0745
Submitter Case Number

EXHIBITS:

- 1 - Cartridge case 5.56mm (Item 1, Doc 339-05).
- 2 - Rifle SN: W077786 (Item 1, Doc 351-05).
- 3 - Pistol SN: 1363582 (Item 1, Doc 350-05).

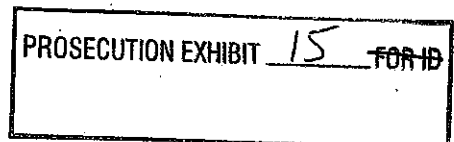
FINDINGS:

1. Exhibit 2 (rifle) is a mechanically functional firearm with the incorporated safety features working properly. It has a trigger pull force of approximately 8 pounds in the semi-automatic mode of fire and approximately 11 pounds in the burst mode of fire.
2. Exhibit 3 (pistol) is a mechanically functional firearm with the incorporated safety features working properly. It has a trigger pull force of approximately 5 pounds single action and approximately 10 pounds double action.
3. Using laboratory ammunition and magazine, Exhibit 2 was test fired. The recovered test cartridge cases were microscopically compared to Exhibit 1 (cartridge case). Exhibit 1 was identified as having been fired in Exhibit 2.



AN ASCLD/LAB ACCREDITED LABORATORY (SINCE 1985)

FOR OFFICIAL USE ONLY - LAW ENFORCEMENT SENSITIVE 1 of 2




FOR OFFICIAL USE ONLY - LAW ENFORCEMENT SENSITIVE

CILA-FA

SUBJECT: Firearms Division - Final Report
USACIL Case Number 2005-CID131-0745
Submitter Case Number

4. Two original reports have been produced. These reports were completed at or near the time of the forensic examination(s) and prepared in the ordinary course of business by the undersigned. These reports were made by the regularly conducted activity as a regular practice of the United States Army Criminal Investigation Laboratory. Point of contact is the Evidence Processing Division, DSN 797-7082/7109/7110, Commercial (404) 469-7082/7109/7110, Fax DSN 797-7112, or Email: usacil@usacil.army.mil.


MICHAEL E. BROOKS
Forensic Firearms Examiner



DEPARTMENT OF THE ARMY
HEADQUARTERS, U. S. ARMY MEDICAL COMMAND
1216 STANLEY ROAD, SUITE 25
FORT SAM HOUSTON, TEXAS 78234-5053

REPLY TO
ATTENTION OF

MCHS-I


10 August 9, 2005

MEMORANDUM FOR CPT Matthew W. Shepherd, Brigade Trial Counsel, HHC, 18th
Military Police Brigade

SUBJECT: Authenticity of Medical Record – Hadi Saleh Khalid Al Ujuhishi

1. The US Army Patient Administration Systems and Biostatistics Activity (PASBA) certifies the following 163 pages is a true copy of the original document which is temporarily housed at PASBA until processed and readied for retirement.
2. Our point of contact is Mrs. Carolyn Enloe, Data Input Section, PASBA, 1216 Stanley Road, Suite 25, Fort Sam Houston, TX 78234-5053, DSN 471-1414, Commercial (210) 221-1414.

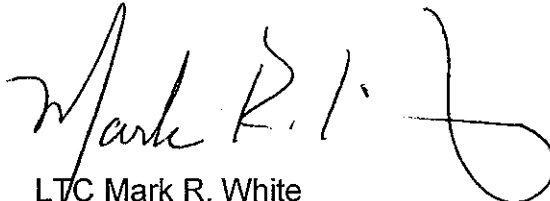
Encl


GREGORY A. SWANSON
LTC, MS
Director,
Patient Administration Systems
and Biostatistics Activity

PROSECUTION EXHIBIT 16 FORM

MCHS-ISD

SUBJECT: Authenticity of Medical Record – Hadi Saleh Khalid Al Ujuhishi



LTC Mark R. White
Chief, Data Management Branch



Carolyn Enloe
Chief, Data Input Section

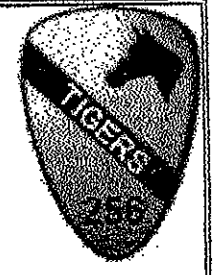
OFFICE OF THE CLERK OF COURT
US ARMY JUDICIARY
ARLINGTON, VIRGINIA 22203-1837

THE RECORD OF TRIAL HAS BEEN REVIEWED FOR RELEASE UNDER THE PROVISIONS OF THE FREEDOM OF INFORMATION ACT. THE DOCUMENT[S] DESCRIBED AS FOLLOWS HAVE BEEN REMOVED FROM THIS COPY OF THE RECORD BECAUSE THE RELEASE WOULD BE IN VIOLATION OF THE DOD FREEDOM OF INFORMATION ACT PROGRAM, DOD 5400.7-R, EXEMPTION (b) (6) 5 U.S.C. 552(b)6):

Medical Report(s)



DEPARTMENT OF THE ARMY
256 BCT
APO AE 09303
Staff Action
TIGERS!



S: 21/03/05

SUBJECT: Detainees 823

REASON FOR ACTION: Detention Checklist

FACTS OR DISCUSSION:

Required Forms and Evidence (complete prior to detention at BIF)

- CPA Apprehension Form or DA Form 2748 - EPW Capture Tag (Parts A-C)
- DA Form 4137 / USIR 503-3 - Evidence/Property Custody Document
- DA Form 4002 - Evidence Property Tag
- DA Form 2823 (2) - Sworn Statements (Unit Soldiers) or USIR 503-2 in Arabic for detainees or Arabic witnesses
- SF 600 - Medical Exam Form
- DD Form 2708 - Receipt for Inmate/Detained Person

- Photographs of scene and / or detainees in front of evidence, i.e. weapons (take whenever possible, if no camera present sketch or notate possible evidentiary details).
- Targeting packet, if applicable.

CONCLUSION: I have received and reviewed the enclosed detention packet.

| | |
|--|--|
| ACTION OFFICER/PHONE: BDE S2X 242-4326 | NAME OF BDE S-2X: MAJ Darren L. Ledet |
|--|--|

| Section | Name | Initials | Date |
|-------------------------|--------------------------|----------|----------|
| BN S2 | | | 21/03/05 |
| BN CDR/XO BDE S2X | MAJ Darren L. Ledet | | 21/03/05 |
| SJA | | | |
| BDE DBC/XO | COL Ron Johnson | | |
| BDE CDR | BG John P. Basilica, Jr. | | |

COMMENTS:

161

COALITION PROVISIONAL AUTHORITY FORCES AP. EXTENSION FORM
 YELLOW FIELDS MUST BE FILLED IN, IF APPLICABLE, UPON APPREHENSION

| | |
|--|---|
| <input type="checkbox"/> Offense against Civilian(s) [check one] If "Other" then describe: | |
| <input type="checkbox"/> Arson (I.P.C. 342) <input type="checkbox"/> Solicitation of Fornication/Prostitution (I.P.C. 399) <input type="checkbox"/> Rape/Indecent/Sexual Assaults/Acts (I.P.C. 393-98, 402) <input type="checkbox"/> Murder (I.P.C. 405) <input type="checkbox"/> Aggravated Assault/Assault With Intent To Kill (I.P.C. 410) <input type="checkbox"/> Maiming (I.P.C. 412) <input type="checkbox"/> Simple Assault (I.P.C. 415) <input type="checkbox"/> Kidnapping (I.P.C. 421) | <input type="checkbox"/> Burglary or Housebreaking (I.P.C. 428) <input type="checkbox"/> Extortion/Communicating Threats (I.P.C. 430) <input type="checkbox"/> Theft (I.P.C. 439) <input type="checkbox"/> Destruction of Property (I.P.C. 477) <input type="checkbox"/> Obstructing a Public Highway/Place (I.P.C. 487) <input type="checkbox"/> Discharging Firearm/ Explosive in City/Town/Village (I.P.C. 495) <input type="checkbox"/> Riot or Breach of Peace (I.P.C. 495(3)) <input type="checkbox"/> Other |

| | |
|---|---|
| <input type="checkbox"/> Offense against Coalition Forces [check one] If "Other" then describe: | |
| <input type="checkbox"/> Violation of Curfew <input type="checkbox"/> Illegal Possession of Weapon <input checked="" type="checkbox"/> Assault/Attack on Coalition Forces <input type="checkbox"/> Theft of Coalition Force Property | <input type="checkbox"/> Trespass on Military Installation or Facility <input type="checkbox"/> Photographing/Surveillance Military Installation or Facility <input type="checkbox"/> Obstructing Performance of Military Mission <input type="checkbox"/> Other |

| | | | |
|---|----------------------|-------------------------------|-----------------|
| Apprehending Unit: 617th MP Company, Camp Liberty, Iraq | | Location Grid: MB 73700 63300 | |
| Date of Incident: (D/M/Y) | Time of Incident: | Date of Report: (D/M/Y) | Time of Report: |
| to 20/03/05 | 1130 hrs to 1300 hrs | 21/03/05 | 1600 hrs |

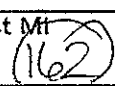
| | | | |
|---|---|--|----------------------------|
| Detainee # 823 | | Key Connected Person: <input type="checkbox"/> Victim <input type="checkbox"/> Witness | |
| Last Name: | | Last Name: | |
| First Name: Given Name: | | First Name: Given Name: | |
| Hair Color: | Scars/Tattoos/Deformities: | Hair Color: | Scars/Tattoos/Deformities: |
| Eye-Color: | Weight: lb Height: in | Eye-Color: | Weight: lb Height: in |
| Address: | | Address: | |
| Place of Birth: | | Place of Birth: | |
| Ethn/Tribe/ Sect: | Sex: <input type="checkbox"/> M <input type="checkbox"/> F | Phone#: <input type="checkbox"/> Mobile <input type="checkbox"/> Regular | DOB D/M/Y: |
| <input type="checkbox"/> Passport <input type="checkbox"/> Dr. license <input type="checkbox"/> Other (specify) | <input type="checkbox"/> Passport <input type="checkbox"/> Dr. license <input type="checkbox"/> Other (specify) | | |
| Document #: | | | |

Total Number of Persons Involved _____ (list names/identifying info on reverse under "Additional Helpful Information")

| | | | |
|--|-----------------------------|--------------|------------------------------|
| <input type="checkbox"/> Vehicle Information | | | |
| Vehicle Number _____ of _____ Vehicle(s) | | | |
| Make: | Color: | License No.: | Owner: |
| Model: | Type: | Plate No.: | Number of People in Vehicle: |
| Year: | Names of People in Vehicle: | | |

| | | | |
|--|-----------|---------------------------------|--|
| <input type="checkbox"/> Property/Contraband | | <input type="checkbox"/> Weapon | Photo Taken of Suspect with Weapon/Contraband: Yes/ No |
| Type: | Model: | Color/Caliber: | |
| Serial No.: | Quantity: | Make: | Receipt Provided to Owner: Yes/ No |
| Other Details: | | Where Found: | Owner: |

Name of Assisting Interpreter: _____ Email, Phone, or Contact Info: _____

| | | | |
|--|------------------|--|------------------|
| Detaining Soldier's Name (Print): SGT Dustin T. Morris | | Supervising Officer's Name (Print): | |
| Last, First MI | | Last, First MI | |
| Signature: | | Signature:  | |
| Email: | | Email: | |
| Unit Phone: 302.242.4446 | Date: 21/03/05 / | Unit Phone: 302.242.4446 | Date: 21/03/05 / |

Why was this person detained?

For attacking coalition forces.

Who witnessed this person being detained or the reason for detention? Give names, contact numbers, addresses.

SGT Dustin T. Morris

617th MP Company, Camp Liberty, Iraq

302.242.4446

SSG Timothy F. Nein

617th MP Company, Camp Liberty, Iraq

302.242.4446

How was this person traveling (car, bus, on foot)?

Who was with this person?

What weapons was this person carrying?

AK-47

What contraband was this person carrying?

What other weapons were seized?

What other information did you get from this person?

Additional Helpful Information:

SWORN STATEMENT

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

PRIVACY ACT STATEMENT

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

1. LOCATION: Camp Liberty, Iraq
2. DATE (YYYYMMDD): 2005 07 21
3. TIME: 1600
4. FILE NUMBER:
5. LAST NAME, FIRST NAME, MIDDLE NAME: Morris, Dustin Taylor
6. SSN:
7. GRADE/STATUS: E-5 / Sgt
8. ORGANIZATION OR ADDRESS: 617th MP Co

9. I, Sgt Morris, Dustin Taylor, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
We were shadowing a convoy southbound down Detroit. The convoy was ambushed on the west side of the road. The order that we were in was Charlie, Bravo, Alpha truck. I was driven in the lead truck sst. Nein was in the TC seat, my gunner was Spc. Cooper. When we seen the convoy get attacked we drove to the front of the convoy on the opposite side. We got to the front and immediately started to take IAF and APG fire, my gunner took shrapnel but still continued to fire on the enemy while he was still under fire. We rolled to a ~~stop~~ stop and myself + sst. Nein + sst. Hester dismounted to engage the enemy. All three of us took out multiple enemy targets. Sgt. Nein + Hester used grenades to take out 3 or 4 ATF in the trench. When that was over I noticed Spc. Mike had an AT-4 pointed at a house that was shooting at us from behind he had a direct hit on the house. Then I got on the radio to give our direct location to the air support, when I got back out of the truck the battle was pretty much over. Sst. Nein + sst Hester continued on down the canal along the MSR to see who was dead and wounded. Then we started medicating the wounded out to on the last chopper I got on it with the last of the EPWs. End of statement

10. EXHIBIT
11. INITIALS OF PERSON MAKING STATEMENT: DM
PAGE 1 OF 3 PAGES

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

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

STATEMENT OF Sgt. Morris, Dustin Taylor TAKEN AT Camp Liberty Iraq DATED 2005 03 21

9. STATEMENT (Continued)

DTM

DTM

DTM

DTM

INITIALS OF PERSON MAKING STATEMENT

DTM

PAGE 2 OF 3 PAGES

(159)

9. STATEMENT (Continued)

[Large area crossed out with a large 'X' and containing several handwritten initials 'DTM']

AFFIDAVIT

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

Dustin Taylor Morris
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 21 day of MARCH, 2005 at Camp Liberty, PEARL

Kenneth D. McDuckson
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

Kenneth D. McDuckson 156
(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

AFM 36(b)9 MCM
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

[Handwritten initials: DTM]

PAGE 2 OF 3 PAGES

[Handwritten circled number: 160]