

COURT-MARTIAL RECORD

NAME COMBS, JAMES E. III PFC

SSN [REDACTED]

ACTIONS CODED:

INITIAL SEP -7 2005

ACCA [REDACTED]

FINAL JAN 17 2007

COMPANION(S):

ASSIGNED TO:

PANEL 2

EXAM. DIV. [REDACTED]

**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 IV VOL(S)

PERMANENT
FILE

ARMY

20050388

20050388

VERBATIM¹
RECORD OF TRIAL²
(and accompanying papers)

OF

COMBS, James E., III
(NAME: Last, First Middle Initial)

[Redacted]
(Social Security Number)

Private First Class
(Rank)

272d MP Co, 720th MP
Bn, 42d MP Bde

(unit/Command Name)

US Army
(Branch of Service)

Camp Cuervo, 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

Camp Victory, Baghdad, Iraq
(Place or Places of Trial)

ON

20 Feb and 24 Mar 05
(Date or Dates of Trial)

COMPANION CASES: None.

PERMANENT
FILE

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

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

20050388

35 AUG 24 11 11 AM '05
COMMUNITY DEVELOPMENT

CHRONOLOGY SHEET¹

In the case of PFC James E. Combs
 (Rank and Name of Accused)

Date of alleged commission of earliest offense tried: 22 Sep, 2004
 (Enter Date)

Date record forwarded to The Judge Advocate General: 2, 2005
 (Enter Date)

Matthew P. Ruzicka

Matthew P. Ruzicka, MAJ, JA, Chief, Criminal Law Division, Multi-National Corps - Iraq

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

	Action	Date 9 Jul 2005	Cumulative Elapsed Days ³
<p>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.</p> <p>² Or officer conducting review under Article 64(a) (MCM, 1984, RCM 1112)</p> <p>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.</p> <p>⁴ Item 1 is not applicable when accused is not restrained, (See MCM, 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.</p> <p>⁵ May not be applicable to trial by special court-martial</p> <p>⁶ Only this item may be deducted</p> <p>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.</p> <p>⁸ When further action is required under Article 64 or service directives.</p>	1. Accused placed under restraint by military authority ⁴	-	-
	2. Charges preferred (date of affidavit)	20 Oct 04	0
	3. Article 32 investigation (date of report) ⁵	--	-
	4. Charges received by convening authority	15 Feb 05	118
	5. Charges referred for trial	15 Feb 05	118
	6. Sentence or acquittal	24 Mar 05	155
	Less days:		
	Accused sick, in hospital or AWOL	-	
	Delay at request of defense	19	
	Total authorized deduction ⁶		
	7. Net elapsed days to sentence or acquittal		155
	8. Record received by convening authority	9 Jul 05	243
	Action ⁷	9 Jul 05	243
9. Record received by officer conducting review under Article 64(a)			
Action ⁸			

REMARKS

DEFENSE DELAYS:

11 June 2005-1 July 2005 (R.C.M. 1105/06 matters): 20 days.

Accused is assigned to Battery A, Personnel Services Battalion, (WOVGPR) Fort Sill, OK 73503
 Prisoner is further attached "with confinement at United States Regional Confinement Facility, (WOVGRP) Fort Sill, OK".

DEPARTMENT OF THE ARMY
Headquarters, U.S. Army Field Artillery Center and Fort Sill
Fort Sill, Oklahoma 73503

GENERAL COURT-MARTIAL ORDER
NUMBER 318

30 November 2006

In the general court-martial case of Private First Class James E. Combs III, U.S. Army, Personnel Control Facility, Garrison Support Unit, U.S. Army Field Artillery Center and Fort Sill, Fort Sill, OK 73503 (formerly assigned to 272nd Military Police Company, 720th Military Police Battalion, 42nd Military Police Brigade, Camp Cuervo, Iraq, APO AE 09390), the sentence of reduction to the grade of Private E1, forfeiture of all pay and allowances, confinement for 6 months, and a Bad-Conduct Discharge, adjudged on 24 March 2005, as promulgated in General Court-Martial Order Number 1, Headquarters, Multi-National Corps-Iraq, Baghdad, Iraq, APO AE 09342, dated 9 July 2005, has been finally affirmed. That portion of the sentence extending to confinement has been served. Article 71(c) having been complied with, the Bad-Conduct Discharge will be executed.

BY ORDER OF COLONEL GREER:



LINDA A. CHAPMAN
MAJ, JA
Chief, Criminal Law Division

DISTRIBUTION:

Accused (1)

Cdr, 272nd MPC, 720th MP Bn, 42nd MP Bde, Camp Cuervo, Iraq, APO AE 09390 (1)

Cdr, 720th MP Bn, 42nd MP Bde, Camp Cuervo, Iraq, APO AE 09390 (1)

Cdr, HQ, MNC-I Baghdad, Iraq, ATTN: SJA, APO AE 09390 (1)

Cdr, Regional Correctional Facility, Fort Sill, OK 73503 (1)

Cdr, HQ, USAFACFS, Fort Sill, OK 73503 (1)

Cdr, PCF, GSU, Fort Sill, OK 73503 (1)

DMPO, ATTN: Special Pay (2)

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

Clerk of Court, ATTN: JALS-CCZ, U.S. Army Legal Services Agency, HQDA, 901 N. Stuart St, Suite 1200, Arlington, VA 22203-2194 (1)

HQ, USACIDC, ATTN: CIOP-ZC, 6010 6th St, Fort Belvoir, VA 22060-5506 (1)

HQ, Department of the Army, Office of the Provost Marshal General, ATTN: MP Division Operations, 2800 Army Pentagon, Washington DC 20310-2800 (1)

Reference Set (1)

Record Set (1)

(ARMY 20050388)

OFFICE OF THE JUDGE ADVOCATE GENERAL

This order accurately reflects the
final action duly taken pursuant to appellate review.
JAN 17 2007

FOR THE JUDGE ADVOCATE GENERAL

2444



DEPARTMENT OF THE ARMY
US ARMY JUDICIARY
901 NORTH STUART STREET
ARLINGTON, VA 22203-1837



JALS-CCR (27-10d/e)

5 September 2006

MEMORANDUM FOR COLONEL RANDALL L. KEYS, STAFF JUDGE ADVOCATE,
HEADQUARTERS, U.S. ARMY FIELD ARTILLERY CENTER & FORT SILL, FORT
SILL, OKLAHOMA 73503-5100

SUBJECT: Supplementary (Final) Court-Martial Promulgating Orders

1. The following cases are ready for your command to issue a
supplimentary court-martial order:

<u>Army Number</u>	<u>Name of Accused's</u>
20010779	Gerard T. Karyeah
20011090	Alphonso L. Simmons, Jr.
20020853	Daryl G. Pierrie
20021322	Christopher C. White
20031298	Todd G. Herman
20040705	Joshua K. Murray
20040788	James N. Mathis
20041303	Mark A. Comstock
20050083	James S. Diesse
20050116	David M. Tripp
20050154	Aaron C. Record
20050367	Charles W. Wingate, Jr.
20050388	James E. Combs, III
20050400	Kieonda J. Washington
20050545	Jason M. Velez
20050554	William R. Oleksik
20050579	Christopher D. Travis
20050626	William A. Lucio
20050751	Jonathan C. Parker
20050843	Justin A. Russell
20050984	Dean E. Bodoh, II
20051014	Glendale C. Walls
20051138	Michael Jansen
20051166	Alejandro Munoz
20051270	Jon L. Morris

US ARMY JUDICIARY
2006 SEP -5 P 2:28

DISPATCHED
CLERK OF COURT


JALS-CCR

SUBJECT: Final Court-Martial Promulgating Orders

2. Enclosed with each case listed above, please find:
 - a. Decision of the US Army Court of Criminal Appeals (ACCA).
 - b. Proof of service and/or attempted service of ACCA's decision upon each individual named above.
 - c. Promulgating Order from the convening authority.
 - d. Decision of the United States Court of Appeals for the Armed Forces (CAAF), if applicable.
3. As the Staff Judge Advocate for accuseds' present convening authority, you are now required to issue a supplementary court-martial order for each individual listed (see Appendix 17b, MCM, 1998). The order must reflect any modifications in the findings or sentence made by ACCA or CAAF as well as any clemency action. Each order should bear the docket number of the case. Distribution of the order (see AR 27-10, para, 12-7) includes 10 copies to this office (ATTN: JALS-CCR). **Request distribution be made within 30 days after you receive this letter.** Besides risking prejudice to the accused, delay exposes the government to unnecessary liability, expense, and possible litigation.
4. If the accused is **no longer assigned** to your command, advise this office by the fastest available means, furnishing us with all applicable transfer orders with your notification. If you have any questions please contact Ms. Joan Graham at COM: (703) 588-7932 or DSN: 425-7932. She may also be reached via E-Mail at Joan.Graham@hqda.army.mil. Our fax number is COM: (703) 696-8777 or DSN: 426-8777.

FOR THE JUDGE ADVOCATE GENERAL:

Encls
as


RANDALL M. BRUNS
Deputy Clerk of Court

United States Court of Appeals for the Armed Forces

Washington, D.C. 20442-0001

UNITED STATES,)
) USCA Dkt. No. 06-0698/AR
) Crim.App. No. 20050388
 Appellee)
)
 v.) ORDER DENYING PETITION
)
)
 James E.)
 COMBS, III,)
 Appellant)

On consideration of the petition for grant of review of the decision of the United States Army Court of Criminal Appeals, it is by the Court this 21st day of August, 2006,

ORDERED:

That said petition be, and the same is hereby denied.

For the Court,

/s/ William A. DeCicco
Clerk of the Court

cc: The Judge Advocate General of the Army
Appellate Defense Counsel (RUHLING II)
Appellate Government Counsel (KOLB)

US ARMY JUDICIARY

2006 AUG 22 A 8:17

RECEIVED
CLERK OF COURT

United States Court of Appeals for the Armed Forces
Washington, D. C. 20442-0001

UNITED STATES,)
) USCA Dkt. No. 06-0698/AR
) Crim.App. No. 20050388
 Appellee)
)
 v.) ORDER DENYING PETITION
)
)
 James E.)
 COMBS, III,)
 Appellant)

On consideration of the petition for grant of review of the decision of the United States Army Court of Criminal Appeals, it is by the Court this 21st day of August, 2006,

ORDERED:

That said petition be, and the same is hereby denied.

For the Court,

/s/ William A. DeCicco
Clerk of the Court

cc: The Judge Advocate General of the Army
Appellate Defense Counsel (RUHLING II)
Appellate Government Counsel (KOLB)



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



REPLY TO
ATTENTION OF

JALS-GA

14 July 2006

MEMORANDUM FOR CLERK OF THE COURT, U.S. COURT OF APPEALS
FOR THE ARMED FORCES, 5TH AND E STREETS, N.W.,
WASHINGTON, D.C. 20442

SUBJECT: Private First Class JAMES E. COMBS, III, ARMY 20050388,
Docket No. 06-0698/AR

1. The United States will not submit a formal reply to the supplement to the petition in this case, including those issues raised pursuant to United States v. Grostefon, 12 MJ 431 (CMA 1982).
2. The United States opposes the granting of a petition for grant of review and relies on its brief filed with the Army Court of Criminal Appeals, attached hereto.

NATALIE A. KOLB
Lieutenant Colonel, JA
Government Appellate Division
C.A.A.F. Bar No. 33192
U.S. Army Legal Services Agency
901 N. Stuart Street,
Arlington, Virginia 22203
(703) 588-5268

CF:

Billy B. Ruhling, II
Major, JA
Appellate Defense Counsel

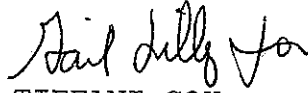
RC&A Copy

Printed on  Recycled Paper

2449

CERTIFICATE OF SERVICE AND FILING

I hereby certify that the original and seven copies of the foregoing was delivered to the Court on July 14 2006 and delivered to defense appellate counsel by hand on July 14 2006.



TIFFANI COX
Paralegal Specialist
Government Appellate Division
(703) 588-5274

IN THE UNITED STATES ARMY
COURT OF CRIMINAL APPEALS

UNITED STATES,
Appellee

BRIEF ON BEHALF OF APPELLEE

v.

Docket No. ARMY 20050388

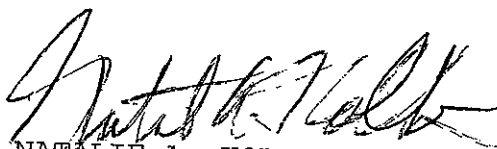
Private First Class
JAMES E. COMBS, III,
United States Army,
Appellant

Tried at Camp Victory,
Baghdad, Iraq, on 20 February
and 24 March 2005, before a
general court-martial convened
by Commanding General,
Headquarters, Multi-National
Corps - Iraq, Colonel
Stephanie Brown and Lieutenant
Colonel Robin L. Hall,
military judges, presiding.

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES
ARMY COURT OF CRIMINAL APPEALS

Appellant has assigned no errors and submitted his case upon
its merits to this Honorable Court. The Government will file no
further pleadings including on those issues raised pursuant to
United States v. Grostefon, 12 M.J. 431 (C.M.A. 1982). *

The Government submits that the approved findings and the
sentence should be affirmed.



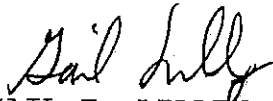
NATALIE A. KOLB
Major(P), JA
Acting Deputy Chief,
Government Appellate Division

Panel 2

* Appellate defense counsel directs this Court's attention to those matters personally raised by appellant. The government has reviewed any alleged errors and submits that all lack merit.

CERTIFICATE OF FILING AND SERVICE

I certify that the original of the foregoing was delivered by hand to this Honorable Court and a copy served upon Appellate Defense Counsel on the 31 day of March 2006.



GAIL F. LILLEY
Legal Specialist
Government Appellate Division
(703) 588-5274

IN THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES

U N I T E D S T A T E S,
Appellee

SUPPLEMENT TO PETITION FOR
GRANT OF REVIEW

v.

Crim. App. Dkt. No. 20050388

Private First Class
JAMES E. COMBS, III,
United States Army,
Appellant

USCA Dkt. No. 06-0698/AR

TO THE JUDGES OF THE UNITED STATES COURT
OF APPEALS FOR THE ARMED FORCES

Statement of the Case

On February 20 and March 24, 2005, Private First Class James E. Combs, III, appellant, was tried at Camp Victory, Baghdad, Iraq, before a military judge sitting as a general court-martial. Pursuant to his pleas, appellant was convicted of involuntary manslaughter, in violation of Uniform Code of Military Justice (UCMJ), Article 119; 10 U.S.C. § 919 (2002). The convening authority approved the adjudged sentence of reduction to Private (E1), forfeiture of all pay and allowances, confinement for six months and a bad-conduct discharge.

On April 7, 2006, the Army Court of Criminal Appeals summarily affirmed the findings and the sentence. (Appendix A). On June 19, 2006, Private First Class Combs filed a Petition for Grant of Review with this Court. Pursuant to the June 19, 2006 Order of this Court, the undersigned military counsel, designated by The Judge Advocate General to represent appellant, hereby

RCA

enter their appearance and file a Supplement to Petition for Grant of Review under Rule 21.

The Army Court of Criminal Appeals had jurisdiction over this matter pursuant to Article 66, UCMJ, 10 U.S.C. § 866. This Honorable Court has jurisdiction over this matter under Article 67(a)(3), UCMJ, 10 U.S.C. § 867(a)(3).

The undersigned have carefully examined the record of trial in this case, do not admit that the findings and the sentence are correct in law and fact, and submit the case on its merits to this Court.*

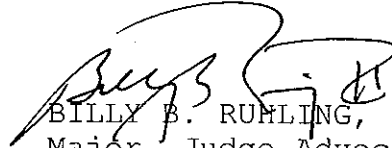
* Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), appellant personally asserts those matters raised in Appendix B and his Rules for Courts-Martial 1105 and 1106 submissions.

Conclusion

WHEREFORE, Private First Class Combs respectfully requests that this Court grant his Petition for Grant of Review.

James E. Combs, III

By



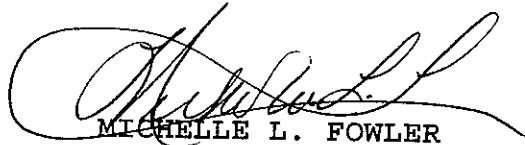
BILLY B. RUNLING, II
Major, Judge Advocate
Appellate Defense Counsel
U.S.C.A.A.F. No. 33436
U.S. Army Legal Services
Defense Appellate Division
901 North Stuart St., Ste. 340
Arlington, Virginia 22203
Phone: (703) 588-5286



JOHN T. PHELPS, II
Colonel, Judge Advocate
Chief, Defense
Appellate Division
U.S.C.A.A.F. No. 20025

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing in the case of
United States v. Combs, Crim.App.Dkt.No. 20050388, USCA Dkt. No.
06-0698/AR, was delivered to the Court and Government Appellate
Division on July 14, 2006.



MICHELLE L. FOWLER
Paralegal Specialist
Defense Appellate Division
(703) 588-6023

CC: DISTRICT CLERK

July 14, 2006

APPENDIX A

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
MAHER, HOLDEN, and WALBURN
Appellate Military Judges

UNITED STATES, Appellee
v.
Private First Class JAMES E. COMBS III
United States Army, Appellant

ARMY 20050388

Multi-National Corps - Iraq
Stephanie S. Browne (arraignment) and Robin L. Hall (trial), Military Judges
Colonel Malinda E. Dunn, Staff Judge Advocate

For Appellant: Major Billy B. Ruhling II, JA; Captain Eric D. Noble, JA (on brief).

For Appellee: Major Natalie A. Kolb, JA.

7 April 2006

DECISION

Per Curiam:

On consideration of the entire record, including consideration of the issues personally specified by the appellant, we hold the findings of guilty and the sentence as approved by the convening authority correct in law and fact. Accordingly, those findings of guilty and the sentence are AFFIRMED.

FOR THE COURT:



MALCOLM H. SQUIRES, JR.
Clerk of Court

APPENDIX B

Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A 1982), appellant through communications with counsel, personally asserts the following matters:

1. That the adjudged sentence is unreasonably harsh punishment for the offense I was convicted of committing. Particularly, the lifelong stigma of a bad-conduct discharge is too onerous a punishment for the misconduct to which I pled guilty. An accident caused by a soldier with no history of misconduct does not dictate such a severe penalty. Moreover, under the circumstances of the case, a discharge in lieu of trial by court-martial would have been wholly appropriate. I admitted that I made a horrible mistake. My commanders believed that it was a mistake and recommended that my administrative discharge request be approved. However, the commanding general, in an effort to set an example in a combat environment, denied my request. Being tried in a combat zone prejudiced my chances of avoiding a bad-conduct discharge. A change of location of trial to Germany, my home station, would have produced a more reliable result.
2. That the bullet trajectory evidence presented prior to trial resulted from a rushed, inconclusive CID investigation. The CID agents' conclusions are best characterized as guesses based on incomplete facts. It is telling that no autopsy was ever performed on the woman who died. It is also noteworthy that the eyewitness Iraqis told many conflicting stories regarding the shooting. For example, one witness originally stated the bullet only caused a flesh wound.
3. That a glaring inconsistency was never resolved at trial - namely, that my weapon was on "burst" mode, yet only one round fired when I squeezed the trigger. This inconsistency is critical, as it may indicate that my weapon malfunctioned.
4. That my household goods have yet to be shipped to me from storage in Germany. Prior to my deployment to Iraq in March 2004, I placed my household goods in storage in Germany. Since my return to the United States and release from confinement, the Army has not delivered my household goods. I have now been without these goods for over two years. I am not sure what the policy is regarding the shipment of household goods for someone in my situation, but I believe fairness dictates that the Army return my

goods to me, as I can not afford to ship them at my own expense.

5
United States Court of Appeals for the Armed Forces

Washington, D.C. 20442-0001

UNITED STATES,)	USCA Dkt. No. 06-0698/AR
)	Crim.App. No. 20050388
)	
Appellee)	
)	
v.)	<u>DOCKETING NOTICE</u>
)	
)	
James E.)	
COMBS, III,)	
)	
Appellant)	

Notice is hereby given that a petition for grant of review of the decision of the United States Army Court of Criminal Appeals was filed under Rule 20 on this 19th day of June, 2006.

Appellant will file a supplement to said petition under Rule 21 on or before the 19th day of July, 2006.

For the Court,

/s/ William A. DeCicco
Clerk of the Court

cc: The Judge Advocate General of the Army
Appellate Defense Counsel
Appellate Government Counsel

US ARMY JUDICIARY

2006 JUN 20 P 2:53

RECEIVED
CLERK OF COURT

**PETITION FOR GRANT OF REVIEW
IN THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES**

For use of this form, see AR 27-10; the proponent agency is The Judge Advocate General.

U.S. ARMY 20050388

IN THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

UNITED STATES,)	PETITION FOR GRANT OF REVIEW
Appellee)	
v.)	ARMY Dkt. No. 20050388
)	
James E. Combs, III, PFC, U.S. ARMY)	USCAAF Dkt. No. <u>06-0698/AR</u>
<hr style="width: 100%;"/>)	(For Court Use Only)
(Full typed name, rank & service of appellant))	
)	
Service No. _____)	
Appellant)	

TO THE JUDGES OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES:

1. I hereby petition the Court for review of my conviction.

2. I understand that, provided this petition is filed within the statutory time period (60 days from date of my receipt of the decision of the U.S. Army Court of Criminal Appeals), unless I specifically request the contrary, a military lawyer will be designated by The Judge Advocate General to represent me free of charge before the U.S. Court of Appeals for the Armed Forces. I also understand that I have the right to be represented by civilian counsel at my own expense.

SIGNED: 

DATED: 10 June 06

MAIL TO: US Court of Appeals for the Armed Forces
450 E Street NW
Washington, DC 20442

20050388

CERTIFICATE OF SERVICE/ATTEMPTED SERVICE

For use of this form, see AR 27-10; the proponent agency is The Judge Advocate General.

UNIT AND INSTALLATION Office of the Clerk of Court, U.S. Army Judiciary 901 North Stuart Street, Suite 1200 Arlington, Virginia 22203-1837	DATE 13 April 2006
---	---------------------------

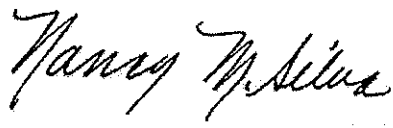
1. I hereby certify that on 13 April 2006, I placed a copy of the decision of the United States Court of Criminal Appeals, together with a copy of the attached DA Form 4917-R advising the accused of his or her right to petition the United States Court of Appeals for the Armed Forces in the case of United States v. James E. Combs, III, Docket #20050388, in an envelope addressed to him or her at:

The said envelope being marked CERTIFIED MAIL, RETURN RECEIPT REQUESTED, that the envelope was placed in the Postal Service and dispatched CERTIFIED MAIL in accordance with the instructions on the envelope. The above address was provided by the accused.

2a. (On the 19 day of Apr, 2006, I received the attached Return Receipt from the Postal Service which shows that delivery was made on the 19 day of Apr, 2006.)

b. (On the _____ day of _____, 20____, I received the attached Return Receipt from the Postal Service for the aforementioned communication and the attached envelope and its contents, and the said envelope is marked as undeliverable by the Postal Service.)

c. (As of the _____ day of _____, 20____, 65 days having passed since the date of postmark, I have received no communication concerning the delivery of the certified envelope and its contents.)

NAME & GRADE OF REPRESENTATIVE	SIGNATURE
Nancy M. Silva, GS 9, Paralegal Specialist Office of the Clerk of Court U.S. Army Judiciary	

COA, J VBBEGGATE DIA

500P VBB SI V 8:31

U.S. Postal Service™
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OFFICIAL USE

20050388
APR 13 2006
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Postage	\$	
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery (Endorsement Req)		
Total Postage &		

Sent To
 Street, Apt. No.,
 or PO Box No.
 City, State, ZIP+4

James E. Combs, III
 Clinton, MD 20735

See Reverse for Instructions

PS Form 3800, June 2002

7194 7813 0004 4000 1160 0005

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. <p>1. Article Addressed to: James E. Combs, III</p>	<p>A. Signature <input checked="" type="checkbox"/> <i>Shirley Combs</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Shirley Combs</i></p> <p>C. Date of Delivery <i>4/13</i></p> <p>D. Is delivery address different from item 1? If YES, enter delivery address below: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>2. Article Number (Transfer from service label)</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>7005 1160 0004 7813 7194</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

GOVT APPELLATE DIV
 2006 APR 21 A 8 31

DEFENSE APPELLATE
 DIVISION/USALSA
 2006 APR 21 A 8 32

RECEIVED



REPLY TO
ATTENTION OF

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

April 13, 2006

Office of the Clerk of Court

SUBJECT: Notification of USACCA Decision (ARMY 20050388)

Private First Class James E. Combs, III

Dear Private First Class Combs:

This letter is notification of the decision of the United States Army Court of Criminal Appeals and informs you of your right to petition the United States Court of Appeals for the Armed Forces for a grant of review. The 60-day period within which you may petition the Court of Appeals for the Armed Forces begins on the day following the date this letter was mailed to you.

If you select to petition the United States Court of Appeals for the Armed Forces (CAAF), please sign and date the five copies of DA Form 4918-R, which are enclosed, and mail them to that Court in the envelope provided. If you DO NOT select to petition CAAF, you may request final action in your case by completing the enclosed DA Form 4919-R and mail it directly to your Appellate Defense Counsel. DO NOT do both.

A copy of the Army Court of Criminal Appeals decision is enclosed. Your appellate rights are more fully explained in DA Form 4917-R, Advice as to Appellate Rights, a copy of which is enclosed.

Sincerely,

A handwritten signature in cursive script that reads "Nancy M. Silva".

NANCY M. SILVA
Paralegal Specialist

Enclosures

Copy Furnished:

Defense Appellate Division, U.S. Army Legal Services Agency, 901 North Stuart Street,
Arlington, Virginia 22203-1837

FILE COPY

2466

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
MAHER, HOLDEN, and WALBURN
Appellate Military Judges

UNITED STATES, Appellee
v.
Private First Class JAMES E. COMBS III
United States Army, Appellant

ARMY 20050388

Multi-National Corps - Iraq
Stephanie S. Browne (arraignment) and Robin L. Hall (trial), Military Judges
Colonel Malinda E. Dunn, Staff Judge Advocate

For Appellant: Major Billy B. Ruhling II, JA; Captain Eric D. Noble, JA (on brief).

For Appellee: Major Natalie A. Kolb, JA.

7 April 2006

DECISION

Per Curiam:

On consideration of the entire record, including consideration of the issues personally specified by the appellant, we hold the findings of guilty and the sentence as approved by the convening authority correct in law and fact. Accordingly, those findings of guilty and the sentence are AFFIRMED.

FOR THE COURT:



MALCOLM H. SQUIRES, JR.
Clerk of Court

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
MAHER, HOLDEN, and WALBURN
Appellate Military Judges

UNITED STATES, Appellee
v.
Private First Class JAMES E. COMBS III
United States Army, Appellant

ARMY 20050388

Multi-National Corps - Iraq
Stephanie S. Browne (arraignment) and Robin L. Hall (trial), Military Judges
Colonel Malinda E. Dunn, Staff Judge Advocate

For Appellant: Major Billy B. Ruhling II, JA; Captain Eric D. Noble, JA (on brief).

For Appellee: Major Natalie A. Kolb, JA.

7 April 2006

DECISION

Per Curiam:

On consideration of the entire record, including consideration of the issues personally specified by the appellant, we hold the findings of guilty and the sentence as approved by the convening authority correct in law and fact. Accordingly, those findings of guilty and the sentence are AFFIRMED.

FOR THE COURT:



MALCOLM H. SQUIRES, JR.
Clerk of Court



DEPARTMENT OF THE ARMY
US ARMY JUDICIARY
901 NORTH STUART STREET
ARLINGTON, VA 22203-1837



JALS-CRZ

DATE: 4 April 2006

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Panel Assignment

UP Art 66(a), UCMJ, the following change in USACCA panel assignments is directed:

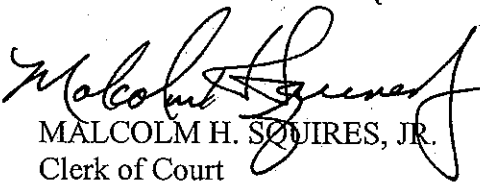
Detailed to Panel 2: Col Walburn

Purpose: Serve as Appellate Military Judge vice COL WILLIAM T. BARTO, JA,
for adjudication of the following case:

UBV. COMBS, ARMY 20050388

Effective date: 4 April 2006

FOR THE CHIEF JUDGE:


MALCOLM H. SQUIRES, JR.
Clerk of Court

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JALS-CR2 (3 copies)

IN THE UNITED STATES ARMY
COURT OF CRIMINAL APPEALS

U N I T E D S T A T E S,
Appellee

BRIEF ON BEHALF OF APPELLEE

Docket No. ARMY 20050388

v.


Private First Class
JAMES E. COMBS, III,
United States Army,
Appellant

Tried at Camp Victory,
Baghdad, Iraq, on 20 February
and 24 March 2005, before a
general court-martial convened
by Commanding General,
Headquarters, Multi-National
Corps - Iraq, Colonel
Stephanie Brown and Lieutenant
Colonel Robin L. Hall,
military judges, presiding.

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES
ARMY COURT OF CRIMINAL APPEALS

Appellant has assigned no errors and submitted his case upon
its merits to this Honorable Court. The Government will file no
further pleadings including on those issues raised pursuant to
United States v. Grostefon, 12 M.J. 431 (C.M.A. 1982). *

The Government submits that the approved findings and the
sentence should be affirmed.



NATALIE A. KOLB
Major(P), JA
Acting Deputy Chief,
Government Appellate Division

Panel 2

* Appellate defense counsel directs this Court's attention to those matters personally raised by appellant. The government has reviewed any alleged errors and submits that all lack merit.

CERTIFICATE OF FILING AND SERVICE

I certify that the original of the foregoing was delivered by hand to this Honorable Court and a copy served upon Appellate Defense Counsel on the 31 day of March 2006.



GAIL F. LILLEY
Legal Specialist
Government Appellate Division
(703) 588-5274

IN THE UNITED STATES ARMY
COURT OF CRIMINAL APPEALS

UNITED STATES,
Appellee

BRIEF ON BEHALF OF APPELLANT

v.

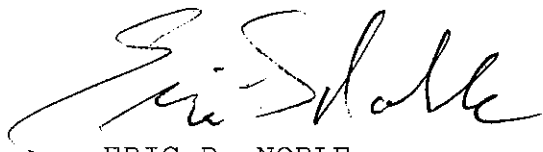
Docket No. ARMY 20050388

Private First Class
JAMES E. COMBS, III
United States Army,
Appellant

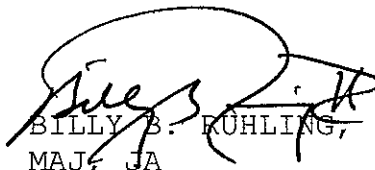
Tried at Camp Victory, Baghdad,
Iraq, on 20 February and 24 March
2005, before a general court-
martial, convened by the
Commanding General, Headquarters,
Multi-National Corps - Iraq,
Colonel Stephanie Brown and
Lieutenant Colonel Robin Hall,
Military Judges, presiding.

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES ARMY
COURT OF CRIMINAL APPEALS

The undersigned have carefully examined the record of trial
in this case, do not admit that the findings and sentence are
correct in law and fact, and submit the case upon its merits.¹



ERIC D. NOBLE
CPT, JA
Appellate Defense Counsel



BILLY B. KÜHLING, II
MAJ, JA
Branch Chief, Defense
Appellate Division

¹ Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), and this Court's Internal Rule of Practice and Procedure 15.3(b)(2), appellant personally asserts those matters raised in his R.C.M. 1105 and 1106 submissions.

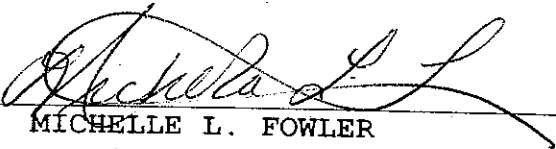
CERTIFICATE OF SERVICE

UNITED STATES v. Combs

Army Docket No. 20050388

Assignment of Error ✓
Motion _____
Other _____

I certify that a copy of the foregoing was delivered to the Court and the Government Appellate Division on 30 March 06.


MICHELLE L. FOWLER
Paralegal Specialist
Defense Appellate Division
(703) 588-6023

DAD Extension Schedule
 (+ Second Extensions)
 Proposed Due Date

Case Name	Case #	DT/RECD	RCPT	DT SCHD	ATTY	BR#	ASSIGN	Contestat	TRNS	PAGES	Panel
Smith, Alvin	20050333	08/23/2005		1/20/2006	CASSARA		G			75	2
				4/20/2006							
Reed, Travion J.	20050637	08/23/2005		1/20/2006	CASSARA		G			67	2
				4/20/2006							
Geathers, Jimmy N.	20050478	08/23/2005		1/20/2006	4700EGB	2	G			525	4
				4/20/2006							
Able, John H.	20050224	08/26/2005		1/23/2006	4904EDN		G			148	3
				4/23/2006							
Wingate, Charles H. Jr.	20050367	08/26/2005		1/23/2006	8243TNG	2	G			133	4
				4/23/2006							
O'Hara, Earl G. III	20041094	08/26/2005		1/23/2006	4904EDN		G			110	4
				4/23/2006							
Combs, James E. III	20050388	08/26/2005		1/23/2006	4904EDN		G			173	2
				4/23/2006							
Hanford, Tanssen G.	20041292	08/26/2005		1/23/2006	3565CLP		C			454	2
				4/23/2006							
Horne, Johnny M. Jr.	20041263	08/30/2005		1/27/2006	3565CLP		G			227	2
				4/27/2006							
Roach, Brandon E.	20041165	08/30/2005		1/27/2006	3565CLP		G			106	3
				4/27/2006							
Mann, Christopher M.	20050566	08/30/2005		1/27/2006	9304JAC	2	G			61	2
				4/27/2006							
Majuste, Rodney	20050279	08/30/2005		1/27/2006	4700EGB	2	G			194	2
				4/27/2006							
Youmans, Shane R.	20050248	08/31/2005		1/28/2006	3565CLP		G			97	2
				4/28/2006							
Hamel, Douglas T.	20041307	08/31/2005		1/28/2006	4700EGB	2	G			222	3
				4/28/2006							

Granted:  Date: 18 June Tally: 14

Denied: _____

DAD Extension Schedule
 (+ First Extensions)
 Proposed Due Date

Case Name	Case #	DT/RECD RCPT	DT SCHD	ATTY	BR#	ASSIGN	Contestat	TRNS	PAGES	Panel
Gogue, Bennie B.	20050650	08/23/2005	10/22/2005	6056DMJ	2	G		101	2	
			1/20/2006							
Beaver, John F.	20050437	08/23/2005	10/22/2005	9304JAC	2	G		66	4	
			1/20/2006							
Smith, Alvin	20050333	08/23/2005	10/22/2005	CASSARA		G		75	2	
			1/20/2006							
Reed, Travion J.	20050637	08/23/2005	10/22/2005	CASSARA		G		67	2	
			1/20/2006							
Cheney, Gabriel D.	20050645	08/23/2005	10/22/2005	CASSARA		G		92	3	
			1/20/2006							
Geathers, Jimmy N.	20050478	08/23/2005	10/22/2005	4700EGB	2	G		525	4	
			1/20/2006							
Able, John H.	20050224	08/26/2005	10/25/2005	4904EDN		G		148	3	
			1/23/2006							
Wingate, Charles H. Jr.	20050367	08/26/2005	10/25/2005	8243TNG	2	G		133	4	
			1/23/2006							
Clemons, Lamont D.	20040927	08/26/2005	10/25/2005	9304JAC	2	G		95	3	
			1/23/2006							
Vaughn, Bradley J.	20050468	08/26/2005	10/25/2005	6056DMJ	2	C		216	3	
			1/23/2006							
O'Hara, Earl G. III	20041094	08/26/2005	10/25/2005	4904EDN		G		110	4	
			1/23/2006							

Contributed by: James E. III 20050988 08/26/2005 10/25/2005 1/23/2006
 Granted: Michael J. Starnes Date: 17 Oct 05 Tally: 12
 Denied: _____

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

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

ARMY 20050388

v.

POC JAMES E. COMBS III

REFERRAL AND DESIGNATION
OF COUNSEL


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

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

Date: 26 August 2005

PANEL: 2

FOR THE CLERK OF COURT:


RANDALL M. BRUNS
Deputy Clerk of Court

DISTRIBUTION:

JALS-DA
JALS-GA

GOVT APPELLATE DIV
2005 AUG 26 P 1:54

DEFENSE APPELLATE
DIVISION/USALSA

2005 AUG 26 P 2:03

RECEIVED

FICI-JA

9 Jun 05

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

SUBJECT: Request for Post Trial Discharge in Lieu of Trial by Court-Martial

1. Purpose. To take action on the subject request pertaining to Private First Class James E. Combs, III, U.S. Army, 272nd Military Police Company, 720th Military Police Battalion, 42nd Military Police Brigade, Camp Cuervo, Iraq, APO AE 09390 (TAB B).
2. On 17 January 2005, Lieutenant General Thomas J. Metz disapproved the accused's request for a Chapter 10 Discharge in Lieu of Trial by Court-martial.
3. Facts. On 24 March 2005, the accused was convicted by a General Court-Martial, of unlawfully killing Ms. B.H. by culpable negligence. He was sentenced to be reduced to the grade of Private (E-1), to forfeit all pay and allowances, to be confined for six (6) months, and to be discharged from the service with a bad conduct discharge (TAB C).
4. The accused submitted a request for Post Trial Discharge in Lieu of Trial by Court-Martial, dated 17 May 2005, but received by this office on 30 June 2005 (TAB B).
5. SJA Recommendation. That you disapprove the accused's request for a Chapter 10 by signing the action at TAB B.

Encls
as



MALINDA E. DUNN
COL, JA
Staff Judge Advocate

20050388

FICI-CG

9 JUN 05

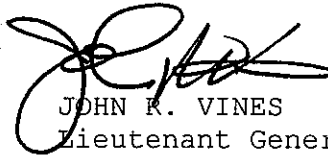
MEMORANDUM THRU Commander, Major David T. Scott, United States Army
Trial Defense Service, Region IX, Baghdad Field Office, Camp Victory,
Iraq, APO AE 09342

FOR Private First Class James E. Combs, III, U.S. Army,
272nd Military Police Company, 720th Military Police Battalion, 42nd
Military Police Brigade, Camp Cuervo, Iraq, APO AE 09390

SUBJECT: Request for Post Trial Discharge in Lieu of Trial by Court-
Martial

1. I have read and reviewed the Request for Post Trial Discharge in
Lieu of Trial by Court-Martial, under the provisions of Army
Regulation 635-200, Chapter 10, of Private First Class James E. Combs,
III, U.S. Army, 272nd Military Police Company, 720th
Military Police Battalion, 42nd Military Police Brigade, Camp Cuervo,
Iraq, APO AE 09390

2. I hereby disapprove the request for Post Trial Discharge in Lieu of
Trial by Court-Martial.



JOHN R. VINES
Lieutenant General, USA
Commanding

DEPARTMENT OF THE ARMY
Area Support Group - Kuwait
APO AE 09366

ORDERS 140-02

20 May 2005

COMBS, JAMES E. III, PFC, 272nd MILITARY POLICE CO, 720th
MILITARY POLICE BN, 42nd MILITARY POLICE BDE, CAMP CUERVO, IRAQ

You will proceed on permanent change of station as shown.
Assigned to: BATTERY A. PERSONNEL SERVICES BATTALION (WOVGPR) FORT
SILL, OK 73503

Departure Date: O/A 23 MAY 2005

Additional Instructions:

- (a) Prisoner is further attached "with confinement at United States Regional Confinement Facility (WOVGPR) Ft Sill, OK." Prisoner is also attached for all courts, boards, and UCMJ action.
- (b) You are authorized two pieces of free checkable baggage. Each piece is not to exceed 70 pounds of 62 linear inches of combined length, width and height.
- (c) You are authorized to hand carry one piece of baggage. If it exceed 100 pounds, it must be moved as air cargo and paid by you.
- (d) You are authorized shipment of HHG, whole baggage, and POV EAW paragraph US3700 per JPFR.
- (e) Information concerning your port call will be provided separately.
- (f) Soldier must have an escort to execute this move.

FOR ARMY USE

Auth: AR 190-47 & USACF-E
MDC: 7CES
PPD: N/A
PMOS/AOC: N/A
CIC: 241A63
Aval date: 23 MAY 2005
Format: 410

FOR THE MILITARY PERSONNEL OFFICER:

OFFICIAL
HQ. ASG-KU

KEATON L. BEAUMONT
MAJ, AD
Adjutant

DISTRIBUTION:

MPRJ (1)
CPF (1)
PAS (1)
Reassignment Packet (1)
Cdr, 272nd MP CO (1)
Cdr, A BTRY PER SVC BATT (WOVGPR) FT SILL, OK 73503 (1)
PFC COMBS (5)

UNITED STATES

v.

Combs, James
PFC, U.S. Army,
272nd MP Company, 759th MP BN
89th MP BDE, 1st CD, Baghdad, Iraq

)
)
) POST TRIAL AND APPELLATE
) RIGHTS

)
)
) 15 Feb 05
)
)

I, PFC Combs, 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

20050388

APPELLATE EXHIBIT	<u>IV</u>
pg 1 of	3

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).

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

JEC b. I would like a copy of the record of trial served on: my Defense Counsel, CPT DAVID T. SCOTT and myself.

JEC c. My defense counsel, CPT DAVID T. SCOTT, will submit R.C.M. 1105 matters in my case.

JEC 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.

JEC 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:

Should I later retain 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:

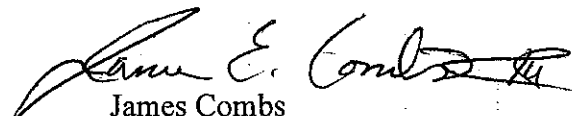
Name: James E Combs III

Street: _____

City, State, Zip: _____

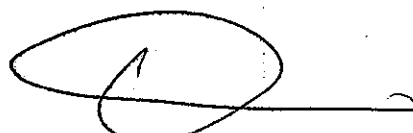
Area Code & Telephone: _____

20 Feb 05
(Date)


James Combs
PFC, USA
Accused

I certify that I have advised PFC James Combs 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.

20 FEB 05
(Date)


DAVID T. SCOTT
CPT, JA
Defense Counsel

VICTIM/WITNESS CERTIFICATION AND ELECTION CONCERNING INMATE STATUS

(This form is exempt from Freedom of Information Act release.)

PRIVACY ACT STATEMENT

AUTHORITY: 42 U.S.C. 10606 et seq., Victim's Rights and Restitution Act of 1990; 18 U.S.C. 1501 et seq., 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 changes in a criminal offender's status.

SECTION I - ADMINISTRATIVE INFORMATION

Installation Camp Victory, Iraq City APO State AE ZIP Code 09342-1400
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 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.

COMBS, James, E., III

(Name of accused) (Last, first, middle initial)

(Social Security Number)

convened by CMCO #1, dtd 17 Jan 05, as amended by CMCO #3, dtd 22 Mar 05, HQ, MNC-I, Iraq APO AE 09342-1400
(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 of 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 reinitiate notifications, or if they change their address listed above, they must contact the Military Service Central Repository listed in Section V.

(Signature of person providing notification)

CHRISTOPHER L. PAWLOSKI

(Typed name (Last, first))

20050324
(Date) (YYYYMMDD)

CPT, JA
(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 <i>(Last, First, Middle Initial)</i>	ADDRESS <i>(Street, Apartment No., City, State, ZIP Code)</i>	TELEPHONE NUMBER <i>(Include Area Code)</i>	V OR W	NOTIFY	
				YES	NO
			W	X	
			W	X	
Jz			W	X	

SECTION V - DISTRIBUTION

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

MILITARY SERVICE CENTRAL REPOSITORY

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.)*

COURT-MARTIAL DATA SHEET

1. OJAG NUMBER

2. NAME (Last, First, Middle Initial) COMBS, James E., III	3. SOCIAL SECURITY NO.	4. RANK PFC (E-3)	5. UNIT/COMMAND NAME 272d MP Co, 720 th MP Bn, 42d MP Bde
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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

<p>TC - Trial Counsel. This column will be completed in all cases in which a finding of guilty is returned.</p> <p>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.</p>	<p>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</p>	<p>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.</p> <p>References - All references are to the Uniform Code of Military Justice (UCMJ) and the Manual for Courts Martial, United States (MCM), 1984.</p>
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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?	N/A	N/A	N/A	N/A	N/A	N/A		
b. If not: Did the accused waive his/her right to such representation?	N/A	N/A			N/A	N/A		
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

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

COURT-MARTIAL DATA SHEET

SECTION A - PRETRIAL AND TRIAL PROCEDURE (CONTINUED)	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
21. a. Was each accused extended the right to challenge military judge (if any), and any member of the court for cause and to exercise one peremptory challenge?	X				X			
b. Was action by court upon challenges proper (RCM 902 and RCM 912)?	N/A	N/A			N/A	N/A		
c. Does the record show that a member excused as a result of a challenge withdrew from the court?	N/A	N/A			N/A	N/A		
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?		X				X		
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))?	N/A	N/A			N/A	N/A		
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			
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)?	N/A	N/A			N/A	N/A		
c. If special findings were requested, were they made a part of the record?	N/A	N/A			N/A	N/A		
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))?	N/A	N/A			N/A	N/A		
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)?	N/A	N/A			N/A	N/A		
b. If trial was by military judge alone, did the military judge announce the sentence (RCM 1007)?	X				X			

COURT-MARTIAL DATA SHEET

SECTION A - PRETRIAL AND TRIAL PROCEDURE <i>(CONTINUED)</i>	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))?	N/A	N/A			N/A	N/A		
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))?	N/A	N/A			N/A	N/A		
35. Was each accused furnished a copy of the record or substitute service made-on defense counsel (RCM 1104(b))?	X				X			
36. Was clemency recommended by the court or military judge?		X				X		
SECTION B - PROCEDURE AFTER TRIAL	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
37. Was the court convened by proper authority (RCM 504(b))?	X				X			
38. Did the court have jurisdiction of person and offense (RCM 202 & 203)?	X				X			
39. Does each specification state an offense under the code (RCM 907(b))?	X				X			
40. Did the accused have the requisite mental capacity at the time of trial and the requisite mental responsibility at the time of the commission of each offense (RCM 909 and RCM 916(k))?	X				X			
41. Is the evidence sufficient to support the findings?	X				X			
42. Is the sentence within legal limits (RCM 1112(d))?	X				X			
43. Is the action of the convening authority properly entered in the record and signed (RCM 1107(f))?					X			
44. If appropriate, is a proper place of confinement designated (RCM 1107(f)(4)(c))?					X			
45. a. Was the staff judge advocate's post-trial recommendation served on the defense counsel for comment (RCM 1106(f))?					X			
b. If the addendum to the recommendation contained new matters, was it served on the defense counsel for comment (RCM 1105(f)(7))?					N/A	N/A		
c. Did the accused submit matters for the convening authority's consideration in a timely manner (RCM 1105)?					X			
d. If yes, was the convening authority's action subsequent to the submission of the matters?					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?					N/A	N/A		
46. a. Does the record indicate that the accused was advised of his/her appellate rights (RCM 1010)?					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			
c. Did the accused waive or withdraw appellate review and is the waiver or withdrawal in proper form and attached to the record of trial (RCM 1110, A19 & 20)?						X		

COURT-MARTIAL DATA SHEET

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

COURT-MARTIAL DATA SHEET

55. REMARKS (Continued):

56. TRIAL COUNSEL

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED
SHEPHERD, Matthew W.	CPT	<i>Matthew W. Shepherd</i>	20 May 2005

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
KING, Francis P.	LTC	<i>Francis P. King</i>	16 July 05

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

There were no Court-Martial Promulgating Orders published by this command during 2004.

DNA processing required. 10 USC 1565.

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

GENERAL COURT-MARTIAL ORDER
NUMBER 1

9 July 2005

Private First Class James E. Combs, III, U.S. Army, 272d Military Police Company, 720th Military Police Battalion, 42d Military Police Brigade, Camp Cuervo, Iraq, APO AE 09390, was arraigned at Camp Victory, Baghdad, Iraq, on the following offenses at a General Court-Martial convened by Commander, Multi-National Corps - Iraq.

Charge I. Article 119. Plea: Guilty. Finding: Guilty.

Specification 1: On or about 22 Sep 04, by culpable negligence, unlawfully killed B.H., by shooting B.H. in the head with an M4 rifle. Plea: Guilty. Finding: Guilty.

Additional Charge. Article 107. Plea: Not Guilty. Finding: Not Guilty.

Specification 1: On or about 22 Sep 04, with intent to deceive, made to 1LT N.P. an official statement, to wit: that his M4 rifle had been in the safe position when the trigger was squeezed, which statement was totally false, and was then known by him to be so false. Plea: Not Guilty. Finding: Not Guilty.

Specification 2: On or about 22 Sep 04, with intent to deceive, made to Special Agent I.C. an official statement, to wit: that, when asked if he had switched his weapon from safe to fire, he answered, I am sure I didn't touch it, which statement was totally false, and was then known by him to be so false. Plea: Not Guilty. Finding: Not Guilty.

SENTENCE

Sentence adjudged on 24 March 2005: To be reduced to the grade of Private (E-1), to forfeit all pay and allowances, to be confined for six (6) months, and to be discharged from the service with a bad conduct discharge.

GCMO No. 1, DA, Multi-National Corps - Iraq, Baghdad, Iraq, APO AE
09342, dated 9 July 2005 (continued)

ACTION

The sentence is approved and except for that part of the sentence
extending to a bad conduct discharge, will be executed.

BY COMMAND OF LIEUTENANT GENERAL VINES:



MATTHEW P. RUZICKA
MAJ, JA
Chief, Military Justice

DISTRIBUTION:

- 1-Accused
- 1-COL Browne, MJ
- 1-CPT Shepperd, TC
- 1-MAJ Scott, DC
- 1-Cdr, 720th MP Bn
- 1-Cdr, 42d MP Bde
- 2-Cdr, MNC-I, PSB, ATTN: Enlisted Records (Comply with AR 37-104-4
and AR 600-8-104, Chapter 6)
- 1-Cdr, USAEREC, ATTN: PCRE-FS, Fort Ben Harrison, IN 46249
- 1-Cdr, FORSCOM, ATTN: FCJA-ML, Fort McPherson, GA 30330-6000
- 1-Cdr, HQ, A BTRY PSB, WOVGPR, Fort Sill, OK 73503
- 1-Record Set (Original)
- 1-OSJA Case File
- 1-Clerk of Court (JALS-CCR), Suite 1200, 901 North Stuart Street,
Arlington, VA 22203-1837

There were no Court-Martial Promulgating Orders published by this command during 2004.

DNA processing required. 10 USC 1565.

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

GENERAL COURT-MARTIAL ORDER
NUMBER 1

9 July 2005

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GCMO No. 1, DA, Multi-National Corps - Iraq, Baghdad, Iraq, APO AE 09342, dated 9 July 2005 (continued)

ACTION

The sentence is approved and except for that part of the sentence extending to a bad conduct discharge, will be executed.

BY COMMAND OF LIEUTENANT GENERAL VINES:



MATTHEW P. RUZICKA
MAJ, JA
Chief, Military Justice

DISTRIBUTION:

- 1-Accused
- 1-COL Browne, MJ
- 1-CPT Shepperd, TC
- 1-MAJ Scott, DC
- 1-Cdr, 720th MP Bn
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There were no Court-Martial Promulgating Orders published by this command during 2004.

DNA processing required. 10 USC 1565.

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

GENERAL COURT-MARTIAL ORDER
NUMBER 1

9 July 2005

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SENTENCE

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GCMO No. 1, DA, Multi-National Corps - Iraq, Baghdad, Iraq, APO AE 09342, dated 9 July 2005 (continued)

ACTION

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MATTHEW P. RUZICKA
MAJ, JA
Chief, Military Justice

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

GENERAL COURT-MARTIAL ORDER
NUMBER 1

9 July 2005

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SENTENCE

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GCMO No. 1, DA, Multi-National Corps - Iraq, Baghdad, Iraq, APO AE 09342, dated 9 July 2005 (continued)

ACTION

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BY COMMAND OF LIEUTENANT GENERAL VINES:



MATTHEW P. RUZICKA
MAJ, JA
Chief, Military Justice

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DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE, REGION V
FORT LEWIS FIELD OFFICE
FORT LEWIS, WASHINGTON 98433-9500

REPLY TO
ATTENTION OF:

AFZH-JA-TDS

30 June 2005

MEMORANDUM THRU Staff Judge Advocate, Multi-National Corps – Iraq, Camp Victory,
Iraq APO AE 09342

FOR Commander, Multi-National Corps – Iraq, Camp Victory, Iraq APO AE 09342

SUBJECT: Post-Trial Submissions, United States v. PFC James Combs, 272nd MP Company,
759th MP BN, 42nd MP BDE, Camp Victory, Iraq

1. Pursuant to Rule for Court-Martial (R.C.M.) 1105 and 1106, the Defense submits the following for consideration in post-trial actions.

The Staff Judge Advocate's Post-Trial Advice:

2. There are no factual errors in the Staff Judge Advocate's Post-Trial Advice/Case Abstract. However, PFC Combs is entitled to the Iraq Campaign Medal.

Clemency Issues:

3. First, the Defense requests that you disapprove the Bad-Conduct Discharge and return PVT Combs to his unit. Second, and in the alternative, the Defense requests that you approve the attached Post-Trial Chapter 10 request (Tab E) and disapprove the court-martial findings and sentence.

4. Clemency is appropriate in this case for the following reasons:

a. PVT Combs negligently but accidentally discharged his firearm. PVT Combs was placed on the roof of a Police Station in downtown Baghdad to perform force protection. Fifty minutes into his second guard shift of the day PVT Combs mistakenly discharged the weapon and caused the death of a civilian. There was no malice or intent. He was doing the best he could and made a mistake. We place young Soldiers in harms way and expect them to perform under extremely stressful and dangerous situations. These Soldiers will sometimes make mistakes. We should not give up on Soldiers that make mistakes under these extreme circumstances. Soldiers should know that their "Army of One" will make every effort to rehabilitate them when they make a mistake in combat, even when tragic.

AFZH-JA-TDS

SUBJECT: Post-Trial Submissions, United States v. PFC James Combs, 272nd MP Company, 759th MP BN, 42nd MP BDE, Camp Victory, Iraq

b. PVT Combs has learned from this incident, is gravely sorry, and can overcome it. Please review his letter written to you asking for clemency (Tab A), the statement he made in Court (Tab B), and the letter he wrote to the victim's family (Tab C).

c. The Chain of Command and PVT Combs' family request you disapprove the Bad Conduct Discharge and return PVT Combs to his unit (Tab D). As you will see in the attached statements, his fellow Soldiers want him back:

(1) LTC Freeman, PVT Combs Battalion Commander in Iraq states that *"there is nothing like the 'fog of war.' PVT Combs understood the seriousness of what he did and pled guilty; however, I don't think we should destroy his military life for what I feel was a foolish mistake by a young Soldier. Bottom Line: request you give him a second chance. He will make a positive contribution to our Army and our nation."*

(2) CSM Rimpley, PVT Combs' Battalion Command Sergeant Major for OIF 2 states that *"Upon completion of his six month incarceration, PFC Combs should be allowed to return to his unit to great leaders who will teach, coach and mentor him back to being an integral member of today's Army."*

(3) CPT Marquiss, the 272nd MP Company Commander states that *"In my opinion he has atoned for his actions in the form of time served in confinement and I know he would be a valued member of my team if he was given the opportunity to do so. I would fight to serve with him now and in the future."*

d. Accomplishes Goals of Punishment. Approving PVT Combs' request for clemency and allowing him to finish his enlistment will still accomplish the goals of punishment. Factors which the Army Clemency and Parole Board considers to determine when clemency or parole are appropriate include:

(1) The effect its decision may have on the deterrence of the offender and others from committing other or similar crimes. PVT Combs' trial has served as a strong deterrent to both him and the soldiers who know of his sentence.

(2) The protection and welfare of society. There is no reason to believe PVT Combs' is a danger to society. In contrast, the numerous letters of support from his chain of command demonstrate the strong belief that he can continue his service in the Army.

(3) The need for good order and discipline within the Army. If PVT Combs' Bad Conduct Discharge was disapproved, the chain of command and unit Soldiers will welcome him back with open arms.

AFZH-JA-TDS

SUBJECT: Post-Trial Submissions, United States v. PFC James Combs, 272nd MP Company, 759th MP BN, 42nd MP BDE, Camp Victory, Iraq

(4) The rehabilitation of the offender. PVT Combs has demonstrated his rehabilitation many times. He continued to serve honorably for five months in Iraq after the incident. The statements of his chain of command are a testament to this.

(5) The extent and nature of any violence or the potential for violence, associated with the offense. The stipulation of fact clearly demonstrates that this incident was a mistake. There was no intentional violence of action or thought.

(6) If a weapon was involved, the type of weapon and how it was used. As stated in (5), this was a mistake and the weapon was not used intentionally.

5. For all of the reasons stated above, request that you disapprove the Bad Conduct Discharge. However, if you do not disapprove the Bad Conduct Discharge, we request that you approve the Post-Trial Chapter 10 request at Tab E and disapprove the findings of the Court-Martial. A Post-Trial Chapter 10 will end PVT Combs' military career with an Other-Than Honorable Discharge rather than a Bad Conduct Discharge. Tab E contains the request and supporting documentation. You reviewed this packet when it was submitted as a Pre-Trial Chapter 10. We ask that you reconsider your earlier denial. Please look once again at the words of his chain of command that support a Discharge in lieu of court-martial. The words of the Soldiers that served in combat for MNC-I are those that are most important:

a. LTC Freeman, Battalion Commander: *"I do not feel that a felony conviction and imprisonment is appropriate in this case."*

b. CSM Rimpley, Battalion Command Sergeant Major: *"In combat, we ask a lot of our young Soldiers, particularly those who are gunners and responsible for the safety of the team. This Soldier made a mistake but you should consider the environment and the circumstances surrounding this incident when considering the method of punishment. For these reasons, I fully support allowing PFC Combs be discharged from the military under Chapter requirements in lieu of trial by court-martial."*

c. CPT Marquiss, Company Commander: *"A decision to allow this Soldier to be discharged is in keeping with some of the best traditions the NCO Corps rallies around - fairness and impartiality when recommending both rewards and punishment."*

d. 1SG Miller, Company First Sergeant: *"He deployed to a harsh and unforgiving environment, was placed under extreme hardship, and I believe did his best. I don't think PFC Combs' negligence should result in his Trial by Court-Martial or imprisonment."*

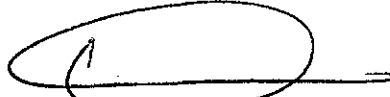
6. We propose that the most important part of this clemency request are the words of the Soldiers and family members that have written to you. The Defense asks that you closely review their heartfelt words in clemency and in support of the Chapter 10. You will see that from his battle buddy to his Battalion Commander... all have asked that PVT Combs be returned to his

AFZH-JA-TDS

SUBJECT: Post-Trial Submissions, United States v. PFC James Combs, 272nd MP Company,
759th MP BN, 42nd MP BDE, Camp Victory, Iraq

unit. At trial, his Company Commander, CPT Jason Marquiss, provided sworn testimony that he would gladly give up his commission if it meant that PVT Combs could avoid Court-Martial. There are no more powerful words of faith and forgiveness that a warrior could ever speak. Please consider these words... they all ask for your clemency and help.

7. POC is the undersigned at DSN.357-0782.

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right.

DAVID T. SCOTT
MAJ, JA
Defense Counsel

TAB A

Dear Sir:

I would like to apologize for my actions. I let down my family, my fellow Soldiers, my unit, and the Army. Additionally, my actions caused the loss of a person's life. I can never make up for what I did. I accidentally discharged my rifle and it caused a tragedy. But, Sir, it was an accident. I never meant to hurt anyone. I am asking that you let me return to my unit to finish my enlistment. Or, if you can't do that, please grant my Chapter 10 request so that I don't get a Bad Conduct Discharge.

I know how to handle firearms and I know I should never have taken my weapon off safe. I was tired and hot and was really trying to stay awake. When you are on guard you have to be alert and not make mistakes. I made one. But, Sir, I have learned from my mistake. I know that you have to always be careful, one small mistake can cause a tragedy.

I know that this incident has devastated the family of the victim. I cannot make up for what my actions have caused. I apologized to them in Court and wrote a letter to them and had it translated. They shook my hand and I believe they have forgiven me. They said that they knew it was a mistake.

My family has also been affected by my actions. My mother is devastated. She saw me go to war as a proud soldier and get sent home to jail. My sister looks up to me and I let her down. My father is a retired Navy man and a Federal Police Officer. My dream was to follow in his footsteps and become a law enforcement officer after my army enlistment. I have let him down. I have lost my dream, the dream that I shared with the greatest man in my life, my father.

Sir, all I am asking for is a chance for a life that will allow me to make up for my mistake. I can finish my enlistment honorably and I will use this experience to become a better MP. Without a Bad-Conduct Discharge I may be able to make something of my life. That is all I am asking. I am praying that you can give me a chance to make something of my life.

If you decide that I can't stay in the Army because of my mistake, please approve my Chapter 10 request and disapprove my Court-Martial. That will allow me to continue my life without a felony conviction.

I made a mistake. I will be sorry forever. Please let me have a chance to redeem myself as a soldier and human being. I want to be back with my Army family.

Sincerely,

PVT James Combs

TAB B

I am sorry I cannot explain how sorry
I am I have done something terrible

Something I cannot make up for. My actions
caused Mrs. Husare to die. I never ~~meant~~ ^{meant} to
hurt anyone. Mrs. Husare was innocent. In
a split second I ended her life. I can never
make up for that.

→ I know how to handle firearms. I have no excuse
for what I did. You can never do what I
did. I broke the basic rules of weapons
off of safe unless there is a threat. You
never place your finger on the trigger of
a weapon unless you want to shoot it. You never
scan your weapon towards people unless you
check to make sure that it is on safe. You
don't pull the trigger when it is pointing

DEFENSE EXHIBIT C FOR ID
pg 1 of 5

towards anyone except the enemy.

→ My actions were immature and dangerous.

Worse, I didn't tell the truth about it afterward.

I was scared, so afraid I had no excuse.

→ There are no words I can use to make Mrs. Husare's

family feel better. No words that can explain to

Mrs. Husare's husband and grandson that I

never meant for this to happen. I can't bring

Mrs. Husare back. I can only say that I am

Sorry.

→ I have let down my fellow soldiers, my unit,

my family, and the United States of America.

But most of all, I let down Mrs. Husare and

her family. I had a duty to fight the enemy,

and protect those in need. Not take the life

of an innocent person. I cannot explain why

I did what I did, I was notified and trying to do the right thing. But I didn't think about it everyday and have nightmares about it every night.

I have no reason or excuse. I must face whatever punishment will ensure other soldiers learn from my actions.

I want to apologize to my unit, Cpt Marquiss,

SFC McGurny, SSG Jelenc, SSG Pucan, and all of the

other soldiers of the 2nd, I let you all down.

Please forgive me. You should never have had

to come here today. You should have stayed behind

when the unit redeployed. I was never to pay you

for the unit for the support you have given me today.

I don't deserve it.

→ Cpt Marquiss, thank you for giving me a chance to

continue working in the unit after what I did.

4

To my sergeants, you trusted me even after my mistake. You let me continue wearing a weapon.

I promise you that I will do everything I can to make up for this mistake. You are great leaders.

You deserved better than me.

I want to apologize to my dad. I came into the army to make my country proud and follow in my

father's footsteps. I didn't do neither. My father

is a law enforcement officer and I have become

a convicted criminal. There are so words I have that

can't tell him how sorry I am. I disgraced him.

I want to apologize to my mom. We had started to

have a real relationship these past couple of years.

I was a role model for my little sister Danielle

and wanted her to be proud of me. I failed. I

don't deserve your support and kind words.

5

-> To my family and friends who sent letters and support, Thank You. You should not have to do it.

I embarrassed you and let you down.

-> Next, I must again apologize to Mr Husare and your family. My actions caused your loss. Something we can never get back. I am so sorry.

-> I love being a soldier. It is the greatest job

I have had ever had. I have thrown it all away.

-> I can never make up for what I did (stand). But,

to everyone here, and my family, I pledge

that I will learn from my actions and spend

the rest of my life trying to make up for

what I did.

Thank You!!!

TAB C

To the family and friends of the late Mrs. Husaene:

I am writing this letter to apologize for all the heartache I put you all through. It was never in my heart to hurt anyone. It pains me deeply to come before you asking for your forgiveness for something I did and I know was wrong. For the past six months I have had time to reflect on what happened on that dreadful day. I have gone before my lord almighty to ask for guidance and forgiveness for my actions and the loss of Mrs. Husaene.

Everyday I wish I could go back to that particular day, not because of the situation I am facing now, but to undo all the wrong all the extreme amount of pain I have caused. With everyday that passes I wish that I could have one wish and that one wish is to go back into time and prevent this from ever happening. I failed as a soldier and as a person. I have no one to blame but myself. Mrs. Husaene was taken before her time.

On 22 Sept 04 my biggest fear became a reality to me that the round that exited my weapon actually hurt and killed an innocent human being. I was deployed to Iraq to help support the innocent Iraqi people but on that day I failed at doing so. Everyday I regret what I did and from that day I strive to overcome the burden that has been placed upon my heart as well as others. God willing I will do better to improve myself. I know that I cannot bring Mrs. Husaene a wife; a mother, a grandmother, and a friend back to the ones that loved her the most. For that I bring my deepest regrets and my sincerest apologies. I am Sorry for the pain I have caused.

James Combs

للم له لرمه لرم

الى عائلة واصفاء لفقيرة السيدة حسنة

انا اكتب هذه الرسالة للاختار لم عن الحزن الذي تسببه
م انه له فقه نسبه ان احدى وانه يولي لثقة
ان اهل الجامعة لا يطلب منهم ان تسامحوا لعل فقهه به وبعين
الخطا فلا ان لا يسر لثقة اليه وبعين فقهه حسنة لجامعة
بذلك العلم القطع في ذلك لثقة حسنة توصله الى الله
وطلب منه التبرع ولحقه عن كفاية المشروعة التي يمكن ان
لفقيرة السيدة حسنة

ان يوم اتعت ان اعود الى ذلك العلم بالقدرة وليس بسب
الارضية العلم لثقة اهل الشريعة والخطا الكبير والام المشددة
لذو تسببه به ولكن يوم لم اتعت ان امله امنية واجبة
بما في ذلك لثقة فقهه حسنة انا الذي فاشق لحياتي
بلا شان شخصي لثقة لا اطلب احصاء فقط نفسي احسن اني
بفعل لثقة حسنة فقهه حسنة على اولنا

6/9/2006
علافا لالا الذي فقهه حسنة لثقة حسنة لثقة حسنة
ناحية المعارف لمساعدة التعقيب لثقة حسنة لثقة حسنة
بما استطاع فعل ذلك. كان يعلم اننا نسف على ما فعلنا في الاخ من اهل
التفكير على الصلة والارحام التي اصاب قلبه بقلوب الاخرين
بشيء اليه بما فعله احمس ما عين لثقة حسنة لثقة حسنة
نن لا استطاع اجماع لثقة حسنة لثقة حسنة لثقة حسنة
عندما كان اهلها لثقة حسنة لثقة حسنة لثقة حسنة
اختارني انا لثقة حسنة لثقة حسنة لثقة حسنة

صديق كوثر

DEFENSE EXHIBIT D FOR ID
Pg 1 of 2

TAB D



DEPARTMENT OF THE ARMY
Headquarters, 759th Military Police Battalion
Fort Carson, CO 80913

REPLY TO
ATTENTION OF:

AFZC-Y-P-CO

6 June 2005

MEMORANDUM FOR Commander, Multi-National Corps-Iraq

SUBJECT: LETTER OF SUPPORT (PVT JAMES COMBS)

1. I strongly recommend that PVT James Combs' bad conduct discharge be disapproved. PVT Combs served under my command as a military policeman. Prior to the incident, PVT Combs was an outstanding Soldier working under some tremendous stress in the tough Baghdad environment. His performance of duty was nothing short of excellent, accomplishing every mission given to him.

2. As you know, there is nothing like the "fog of war." PVT Combs understood the seriousness of what he did and pled guilty; however, I don't think we should destroy his military life for what I feel was a foolish mistake by a young Soldier. Bottom line: request you give him a second chance. He will make a positive contribution to our Army and our nation.

3. POC is the undersigned at

//original signed//
BYRON A. FREEMAN
LTC, MP
Commanding



DEPARTMENT OF THE ARMY
Headquarters, 759th Military Police Battalion
Fort Carson, CO 80913

REPLY TO
ATTENTION OF:

AFZC-Y-P-CSM

23 June 2005

MEMORANDUM FOR Commander, Multi-National Corps-Iraq

SUBJECT: Request for Clemency – PFC James Combs, 272nd MP Company

1. On 22 September 2004, PFC Combs made a mistake that will haunt him personally and professionally for the rest of his life. In addition to this memory that will affect him daily, if PFC Combs is separated from the military with a bad conduct discharge, he will be reminded of this mistake every time he attempts to seek employment and, in my opinion, will suffer unjustly. In combat, we ask a lot of our young Soldiers, particularly those who are gunners and responsible for the safety of the team. This Soldier made a mistake, but you should consider the environment and the circumstances surrounding this incident when determining his future. Additionally, thousands of dollars have been spent on training PFC Combs to perform duties as an MP, an MOS that is currently critically short of personnel. For these reasons, I fully support allowing PFC Combs to remain on active duty to complete his initial term and determine, on his own, if he desires to continue to serve in the military.

2. As the Battalion CSM, everyday I witnessed bravery, courage, anger, hostility, frustration and enormous heroics from Soldiers. They handled situations ranging from direct enemy contact to indirect fire to an unruly populations of people, while also showing enormous humanitarian kindness and care. Each incident required decisive action directed from every level of leadership; from the lowest ranking Soldier on the roof top conducting force protection duties to the Platoon Leader guiding their platoon through various MP missions. Soldiers and leaders make mistakes while making life and death decisions every day. They make these mistakes and then, based on the circumstances surrounding the entire situation, are held responsible and accountable. Our system for holding Soldiers responsible and accountable is designed to provide the commanders, who know best the circumstances that their Soldiers are in, the ability to adjudicate the issue. There are many examples of poor decisions by leaders and Soldiers that may not have been fatal, but were, in fact, detrimental to the good order and discipline of the military, and were allowed to be dealt with at the unit level. In this incident, I believe that PFC Combs made a mistake but I ask that you allow me to convey the message that PFC Combs should not have to pay for this mistake for the rest of his life with a BCD. Upon completion of his six month incarceration, PFC Combs should be allowed to return to his unit to great leaders who will teach, coach and mentor him back to being an integral member of today's Army.

AFZC-Y-P-CSM

SUBJECT: Request for Clemency – PFC James Combs, 272nd MP Company

3. If you have any questions or comments concerning this memorandum, please contact me at geraldine.rimpley@us.army.mil.

GERALDINE M. RIMPLEY
Battalion Command Sergeant Major

DEPARTMENT OF THE ARMY
272nd MILITARY POLICE COMPANY
CMR 435
APO AE 09086

AERTR-MP-272

09 JUN 2005

MEMORANDUM FOR Commander, MNC-I

SUBJECT: Request for Clemency for PVT Combs, James

1. I request your consideration in disapproving the bad conduct discharge that PVT Combs will face upon his completion of time served as a result of being found guilty of involuntary manslaughter.
2. I was PVT Combs' commander while deployed during OIF II. He was a Soldier in 2nd platoon during the incident that has him incarcerated in Kuwait and while he was not the best Soldier in that platoon he could be counted on at anytime to do the right thing and help his battle buddies get the mission done. His leaders could count on PVT Combs and I know they would take him back into their platoon right now if they could. I personally would take this Soldier back into my command and deploy him again if given the opportunity.
3. I realize the magnitude and gravity of the incident and believe beyond a shadow of a doubt that he did not intend to do harm to anyone that day. He made a grave mistake that ultimately caused a loss of human life. For this I know he is truly sorry.
4. My decision brought then PFC Combs to that Iraqi Police station in downtown Baghdad, but he and his MP team volunteered to begin the OJT process when others in their platoon did not step forward. For this they have my utmost respect and admiration. What we ask of these young warriors is truly amazing, in part because they seem to never disappoint. I know he has learned from this experience and understands the accountability of his actions. In my opinion he has atoned for his actions in the form of time served in confinement and I know he would be a valued member of my team if he was given the opportunity to do so. I would fight to serve with him now and in the future.
5. Please consider favorably my endorsement on his behalf. There are accidents that occur everyday in combat when innocent persons are injured or killed. I know from experience that we ask a lot of our Soldiers and they deserve our support and confidence when they are in need. Right now, PVT James Combs needs the Army and his unit needs him.

JASON L. MARQUISS
CPT, MP
Commanding

UNITED STATES)

v.)

COMBS, James E.. III)
PFC, U.S. Army,)
272d Military Police Company, 720th)
Military Police Battalion, 42nd Military)
Police Brigade, Camp Victory, Iraq)

STIPULATION OF EXPECTED
TESTIMONY

1SG Thomas Miller
23 Mar 05

It is hereby stipulated by and between the trial counsel and defense counsel, with the express consent of the accused, that if 1SG Thomas Miller came before the court as a witness and was placed under oath, 1SG Miller would testify as follows during the pre-sentencing hearing:

1. I am the First Sergeant for the 272nd Military Police Company, Manheim, Germany. Until 15 March 2005, the 272nd was serving in Iraq at Camp Cuervo. I have been in the Army for over 19 years. I have been the First Sergeant of the company since 2003. I was First Sergeant when PFC Combs joined our unit as a military police officer. I have had the opportunity to observe the performance of PFC Combs on numerous occasions in Germany and during our year in Iraq.
2. PFC Combs is a good duty performer. He attacks every task and follows it through until it is completed. You never have to try to motivate him. He has done many missions in Iraq that have benefited both Soldiers and Iraqi citizens. He never complains about the work or being in a dangerous location.
3. PFC Combs continued to be motivated and dedicated after the tragic incident at IPS #10. He always kept a good attitude. We trusted him and assigned him a weapon even though he had a weapons related incident. He never complained about his situation or being denied R&R. He has done dangerous convoy missions in support of our unit. He has served as driver for his team. I trusted him with the lives of my Soldiers and would do so again.
4. I know exactly what PFC Combs is pleading guilty to and the facts surrounding the case. This was a young Soldier mistake made under high stress in a harsh and unforgiving environment. Mistakes are made in the combat environment. Knowing this, I would still put PFC Combs on a guard post because I trust him with my life and the lives of my Soldiers. I believe this was a one-time error in judgment brought on by stress and fatigue. I want PFC Combs back in our unit as soon as possible.