

CERTIFIED RECORD OF TRIAL

(and accompanying papers)

of

Bagui Sumon K [REDACTED] Sgt
(Last Name) (First Name) MI (DoD ID No.) (Rank)

1st Marine Corps District, Eastern Recruiting Region USMC Springfield, Massachusetts
(Unit/Command Name) (Branch of Service) (Location)

By

Special Court-Martial (SPCM)
(GCM, SPCM, or SCM)

COURT-MARTIAL

Convened by

Commanding Officer
(Title of Convening Authority)

1st Marine Corps District
(Unit/Command of Convening Authority)

Tried at

Marine Corps Recruit Depot Parris Island, South Carolina
(Place or Places of Trial)

On

9 August 2022, 29 September 2022, 4 October 2022
(Date or Dates of Trial)

Companion and other cases

None.

(Rank, Name, DOD ID No., (if applicable), or enter "None")

CONVENING ORDER



UNITED STATES MARINE CORPS
1ST MARINE CORPS DISTRICT
EASTERN RECRUITING REGION
605 STEWART AVENUE
GARDEN CITY, NEW YORK 11530-4761

5817
CO

JUL 18 2022

SPECIAL COURT-MARTIAL CONVENING ORDER NUMBER 1-22

Pursuant to Article 23(a), Uniform Code of Military Justice and section 0120b, JAGINST 5800.7F, a Special Court-Martial is hereby convened with the following members and shall meet aboard Marine Corps Recruit Depot Parris Island, South Carolina, or any other location as directed:

MEMBERS

Major [REDACTED] U.S. Marine Corps; President
Major [REDACTED] U.S. Marine Corps; and
Captain [REDACTED], U.S. Marine Corps;
Captain [REDACTED] U.S. Marine Corps;
Captain [REDACTED] U.S. Marine Corps;

[REDACTED]

[REDACTED]

[REDACTED]

CHARGE SHEET

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED <i>(Last, First, Middle Initial)</i> Bagui, Sumon K.			2. EDIPI [REDACTED]	3. GRADE OR RANK Sgt	4. PAY GRADE E-5
5. UNIT OR ORGANIZATION Recruiting Station Springfield, 1st Marine Corps District, Eastern Recruiting Region			6. EAS 6 MAR 23	6b. CURRENT SERVICE	
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED N/A	9. DATE(S) IMPOSED N/A	
a. BASIC \$3273.30	b. SEA/FOREIGN DUTY \$0	c. TOTAL \$3273.30		a. INITIAL DATE 7 NOV 2018	b. TERM 4 yrs. 4 mos

II. CHARGES AND SPECIFICATIONS

10.

CHARGE I: **Violation of the UCMJ, Art. 93a**

SPECIFICATION: (Prohibited acts with an applicant for military service) In that Sergeant Sumon K. Bagui, United States Marine Corps, on active duty, a noncommissioned officer and military recruiter, did, at or near Springfield, Massachusetts, on or about 16 September 2020, engage in a prohibited act, to wit: a sexual act, with Ms. [REDACTED] whom the accused knew or reasonably should have known was an applicant for military service as defined in ALNAV 082/18.

CHARGE II: **Violation of the UCMJ, Art. 92**

SPECIFICATION: (Violation of a lawful general order) In that Sergeant Sumon K. Bagui, United States Marine Corps, on active duty, did, at or near Springfield, Massachusetts, on divers occasions, between on or about 4 September 2020 and on or about 19 September 2020, violate a lawful general order which was his duty to obey, to wit: paragraph 3.a.(2), Depot Order 1100.6, dated 10 August 2020, by wrongfully engaging in an inappropriate social relationship with Ms. [REDACTED] a prospective applicant.

(See Supplemental Page)

III. PREFERRAL

11a. NAME OF ACCUSER <i>(Last, First, Middle Initial)</i> [REDACTED]	b. GRADE E-4	c. ORGANIZATION OF ACCUSER LSST-MCRD PARRIS ISLAND
d. SIGNATURE OF ACCUSER [REDACTED]		e. DATE (YYYYMMDD) 20220616

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oath in cases of this character, personally appeared the above named accuser this 16th day of June, 2022, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

Benjamin C. Shreve
Typed Name of Officer

Trial Services Office, LSST MCRD Parris Island
Organization of Officer

Captain, U. S. Marine Corps
Grade

Judge Advocate

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

SHREVE, BENJAMIN C. Digitally signed by SHREVE, BENJAMIN CHARLES [REDACTED]
HARLES [REDACTED] Date: 2022.06.16 10:59:38 -0400

Signature

12. On 5 July, 2022, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

[REDACTED]
Typed Name of Immediate Commander

1st Marine Corps District
Organization of Immediate Commander

Capt, U.S. Marine Corps

[REDACTED]
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13. The sworn charges were received at 0630 hours, 5 July, 2022 at 1st Marine Corps District
Designation of Command or

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

FOR THE 1 Commanding Officer

[REDACTED]
Typed Name of Officer
Capt, U.S. Marine Corps

District Adjutant, 1st Marine Corps District
Official Capacity of Officer Signing

[REDACTED]
Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY	b. PLACE	c. DATE (YYYYMMDD)
<u>1ST MARINE CORPS DISTRICT</u>	<u>GARDEN CITY, NY</u>	<u>20220718</u>

Referred for trial to the Special court-martial convened by CMCO 1-22

Dated, 18 JULY, 2022, subject to the following instructions: 2

By _____ of _____
Command or Order

[REDACTED]
Typed Name of Officer
COL, USMC
Grade

COMMANDING OFFICER, IMCO
Official Capacity of Officer Signing

[REDACTED]
Signature

15. On 19 JULY, 2022, I caused to be served a copy hereof on (each of) the above named accused.

CAPT BENJAMIN C SHREVE
Typed Name of Trial Counsel

CAPTAIN U.S. Marine Corps
Grade or Rank of Trial Counsel

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.
2 - See R.C.M. 801 (e) concerning instructions. If none, so state.

CHARGE III:

Violation of the UCMJ, Art. 107

SPECIFICATION 1: (False Official Statement) In that Sergeant Sumon K. Bagui, United States Marine Corps, on active duty, did, at or near Springfield, Massachusetts, on or about 22 September 2020, with intent to deceive, make to Captain [REDACTED] United States Marine Corps, official statements, to wit:

- a. That Sergeant Bagui never had sex with Ms. [REDACTED] and
 - b. That while she lived in Sergeant Bagui's Apartment, Ms. [REDACTED] slept on a couch in the living room,
- which statements were totally false and were then known by the said Sergeant Bagui to be so false.

SPECIFICATION 2: (False Official Statement) In that Sergeant Sumon K. Bagui, United States Marine Corps, on active duty, did, on board or near Naval Station Newport, Rhode Island, on or about 17 November 2020, with intent to deceive, make to Special Agent [REDACTED] Naval Criminal Investigative Service, official statements, to wit:

- a. That while she lived in Sergeant Bagui's Apartment, Ms. [REDACTED] slept on an air mattress in the living room;
- b. That Sergeant Bagui did not have any sexual contact with Ms. [REDACTED] that he "never touched" Ms. [REDACTED] and the "most he touched her was having a handshake," or words to that effect; and
- c. That when Sergeant Bagui replaced his bedsheets it was because Ms. [REDACTED] said his apartment was "bland" and needed redecorating, or words to that effect.

which statements were false in that:

- a. Sergeant Bagui slept with Ms. [REDACTED] on a bed in the bedroom of his apartment;
 - b. Sergeant Bagui had sex with Ms. [REDACTED]; and
 - c. Sergeant Bagui replaced his bedsheets because Ms. [REDACTED] bled on the sheets during sex,
- and was then known by Sergeant Bagui to be so false.

TRIAL COURT MOTIONS & RESPONSES

**THERE ARE NO TRIAL COURT MOTIONS
AND RESPONSES**

REQUESTS

THERE ARE NO REQUESTS

NOTICES

THERE ARE NO NOTICES

COURT RULINGS & ORDERS

**THERE ARE NO COURT RULINGS
AND ORDERS**

STATEMENT OF TRIAL RESULTS

STATEMENT OF TRIAL RESULTS

SECTION A - ADMINISTRATIVE

1. NAME OF ACCUSED (last, first, MI) BAGUI, SUMON K.		2. BRANCH Marine Corps	3. PAYGRADE E-5	4. DoD ID NUMBER [REDACTED]
5. CONVENING COMMAND 1ST MARINE CORPS DISTRICT- ERR		6. TYPE OF COURT-MARTIAL Special	7. COMPOSITION Judge Alone	8. DATE SENTENCE ADJUDGED Oct 4, 2022

SECTION B - FINDINGS

SEE FINDINGS PAGE

SECTION C - SENTENCE

9. DISCHARGE OR DISMISSAL Not adjudged	10. CONFINEMENT 45 days	11. FORFEITURES \$1255/mo x 2 months	12. FINES N/A	13. FINE PENALTY N/A
14. REDUCTION E-1	15. DEATH Yes <input type="radio"/> No <input checked="" type="radio"/>	16. REPRIMAND Yes <input type="radio"/> No <input checked="" type="radio"/>	17. HARD LABOR Yes <input type="radio"/> No <input checked="" type="radio"/>	18. RESTRICTION Yes <input type="radio"/> No <input checked="" type="radio"/>
19. HARD LABOR PERIOD N/A				
20. PERIOD AND LIMITS OF RESTRICTION N/A				

SECTION D - CONFINEMENT CREDIT

21. DAYS OF PRETRIAL CONFINEMENT CREDIT 0	22. DAYS OF JUDICIALLY ORDERED CREDIT 0	23. TOTAL DAYS OF CREDIT 0 days
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SECTION E - PLEA AGREEMENT

24. LIMITATIONS ON PUNISHMENT CONTAINED IN THE PLEA AGREEMENT
A punitive discharge may be adjudged. A minimum of 1 month and a maximum of 3 months of confinement will be adjudged for Charge I and its sole Specification. No limitation imposed on Military Judge in regards to forfeitures. Reduction to E-1 will be adjudged.

SECTION F - SUSPENSION RECOMMENDATION

25. DOES THE MILITARY JUDGE RECOMMEND A SUSPENSION OF ANY PORTION OF THE SENTENCE? Yes <input type="radio"/> No <input checked="" type="radio"/>	26. PORTION TO WHICH IT APPLIES [REDACTED]	27. RECOMMENDED DURATION [REDACTED]
28. FACTS SUPPORTING THE SUSPENSION RECOMMENDATION [REDACTED]		

SECTION G - NOTIFICATIONS

29. Is sex offender registration required in accordance with appendix 4 to enclosure 2 of DoDI 1325.07?	Yes <input type="radio"/> No <input checked="" type="radio"/>
30. Is DNA collection and submission required in accordance with 10 U.S.C. § 1565 and DoDI 5505.14?	Yes <input checked="" type="radio"/> No <input type="radio"/>
31. Did this case involve a crime of domestic violence as defined in enclosure 2 of DoDI 6400.06?	Yes <input type="radio"/> No <input checked="" type="radio"/>
32. Does this case trigger a firearm possession prohibition in accordance with 18 U.S.C. § 922?	Yes <input type="radio"/> No <input checked="" type="radio"/>

SECTION H - NOTES AND SIGNATURE

33. NAME OF JUDGE (last, first, MI) CATTO, ERIC A.	34. BRANCH Marine Corps	35. PAYGRADE O-5	36. DATE SIGNED Nov 18, 2022	38. JUDGE'S SIGNATURE CATTO.ER IC.AUSTIN. Digitally signed by CATTO.ERIC.AUSTIN. IN [REDACTED] Date: 2022.11.18 17:23:46 -10'00'
37. NOTES Corrected SOTR.				

STATEMENT OF TRIAL RESULTS - FINDINGS

CHARGE	ARTICLE	SPECIFICATION	PLEA	FINDING	ORDER OR REGULATION VIOLATED	LIO OR INCHOATE OFFENSE ARTICLE	DIBRS
Charge I: Plea: Guilty Finding: Guilty	93a	Specification: Offense description	Guilty	Guilty			093AB-
Abuse of position as a military recruiter							
Charge II: Plea: Not Guilty Finding: W/D	92	Specification: Offense description	Not Guilty	W/D			092-A3
Violation of a lawful general order							
Charge III: Plea: Not Guilty Finding: W/D	107	Specification: Offense description	Not Guilty	W/D			107-B-
False official statement							

STATEMENT OF TRIAL RESULTS - SENTENCE

CHARGE	SPECIFICATION	CONFINEMENT	CONCURRENT WITH	CONSECUTIVE WITH	FINE
Charge I:	Specification:	45 days	N/A	N/A	N/A
Charge II:	Specification:	N/A	N/A	N/A	N/A
Charge III:	Specification:	N/A	N/A	N/A	N/A

CONVENING AUTHORITY'S ACTIONS

POST-TRIAL ACTION

SECTION A - STAFF JUDGE ADVOCATE REVIEW

1. NAME OF ACCUSED (LAST, FIRST, MI) Bagui, Sumon K.		2. PAYGRADE/RANK E5	3. DoD ID NUMBER [REDACTED]
4. UNIT OR ORGANIZATION 1st MCD, ERR		5. CURRENT ENLISTMENT 7 November 2018	6. TERM 4 Yrs, 4 mos
7. CONVENING AUTHORITY (UNIT/ORGANIZATION) 1st MCD, ERR	8. COURT-MARTIAL TYPE Special	9. COMPOSITION Judge Alone - MJA16	10. DATE SENTENCE ADJUDGED 4 October 2022

Post-Trial Matters to Consider

11. Has the accused made a request for deferment of reduction in grade?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
12. Has the accused made a request for deferment of confinement?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
13. Has the accused made a request for deferment of adjudged forfeitures?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
14. Has the accused made a request for deferment of automatic forfeitures?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
15. Has the accused made a request for waiver of automatic forfeitures?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
16. Has the accused submitted necessary information for transferring forfeitures for benefit of dependents?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
17. Has the accused submitted matters for convening authority's review?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
18. Has the victim(s) submitted matters for convening authority's review?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
19. Has the accused submitted any rebuttal matters?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
20. Has the military judge made a suspension or clemency recommendation?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
21. Has the trial counsel made a recommendation to suspend any part of the sentence?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
22. Did the court-martial sentence the accused to a reprimand issued by the convening authority?	<input type="radio"/> Yes	<input checked="" type="radio"/> No

23. Summary of Clemency/Deferment Requested by Accused and/or Crime Victim, if applicable.

I have advised the Convening Authority of clemency authority based on the earliest findings of guilty for an offense committed on or after 1 January 2019 pursuant to R.C.M. 1109, MCM (2019 Ed.)

24. Convening Authority Name/Title [REDACTED] Commanding Officer	25. SJA Name [REDACTED]
26. SJA signature [REDACTED]	27. Date [REDACTED]

Convening Authority's Action -

Bagui, Sumon K.

SECTION B - CONVENING AUTHORITY ACTION

28. Having reviewed all matters submitted by the accused and the victim(s) pursuant to R.C.M. 1106/1106A, and after being advised by the staff judge advocate or legal officer, I take the following action in this case: [If deferring or waiving any punishment, indicate the date the deferment/waiver will end. Attach signed reprimand if applicable. Indicate what action, if any, taken on suspension recommendation(s) or clemency recommendations from the judge.]

Special Court-Martial Order No. R22-03

Action.

In the Special Court-Martial case of United States v. Sergeant Sumon K. Bagui, U.S. Marine Corps, the sentence is approved and will be executed. The Marine Corps Installations East Regional Brig, Camp Lejeune, North Carolina, is designated as the initial place of confinement.

Disposition.

The record of trial is forwarded to the Chief Review Officer, Legal Services Support Section East, Marine Corps Installations-East/Marine Corps Base, Camp Lejeune, North Carolina, for review under Article 65, UCMJ.

29. Convening authority's written explanation of the reasons for taking action on offenses with mandatory minimum punishments or offenses for which the maximum sentence to confinement that may be adjudged exceeds two years, or offenses where the adjudged sentence includes a punitive discharge (Dismissal, DD, BCD) or confinement for more than six months, or a violation of Art. 120(a) or 120(b) or 120b:

N/A.

30. Convening Authority's signature

31. Date

7DEC2022

32. Date convening authority action was forwarded to PTPD or Review Shop.

8 Dec 22

U N I T E D S T A T E S)
)
 v.)
)
 Sumon K. Bagui)
 Sergeant)
 U.S. Marine Corps)

JUDGE ADVOCATE'S REVIEW
R22-03

11 Jan 23

1. Pursuant to Article 65(d), UCMJ, and Rule for Courts-Martial 1201, MCM (2019 ed.), I have reviewed this special court-martial, which was tried on 4 October 2022, and I conclude that:

a. the court-martial had jurisdiction over the accused and the charged offense;

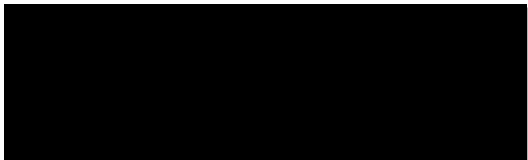
b. the specification for which there was a finding of guilty stated an offense;

c. the sentence approved by the convening authority is within legal limits; and

d. no corrective action is required as a matter of law.

2. A copy of this review is forwarded for delivery to the accused.

3. Ensure that this document is attached to the record of the accused and that an appropriate entry is made on the reverse side of the corresponding page 13 to reflect that review by a judge advocate has been conducted.



R. A. BIFER
Colonel
U.S. Marine Corps
Judge Advocate



ENTRY OF JUDGMENT

ENTRY OF JUDGMENT

SECTION A - ADMINISTRATIVE

1. NAME OF ACCUSED (LAST, FIRST, MI) Bagui, Sumon K.		2. PAYGRADE/RANK E5	3. DoD ID NUMBER [REDACTED]
4. UNIT OR ORGANIZATION 1st MCD, ERR		5. CURRENT ENLISTMENT 7 November 2018	6. TERM 4 Yrs, 4 mos
7. CONVENING AUTHORITY (UNIT/ORGANIZATION) 1st MCD, ERR	8. COURT-MARTIAL TYPE Special	9. COMPOSITION Judge Alone - MJA16	10. DATE COURT-MARTIAL ADJOURNED 4 October 2022

SECTION B - ENTRY OF JUDGMENT

****MUST be signed by the Military Judge (or Circuit Military Judge) within 20 days of receipt****

11. Findings of each charge and specification referred to trial. [Summary of each charge and specification (include at a minimum the gravamen of the offense), the plea of the accused, the findings or other disposition accounting for any exceptions and substitutions, any modifications made by the convening authority or any post-trial ruling, order, or other determination by the military judge. R.C.M. 1111(b)(1)]

Charge I: Violation of Article 93a, UCMJ.
Plea: Guilty. Finding: Guilty.

Specification: A noncommissioned officer and military recruiter, did, on or about 16 September 2020, engage in a prohibited act, to wit: a sexual act, with Ms. [REDACTED] whom the accused knew or reasonably should have known was an applicant for military service as defined in ALNAV 082/18. Plea: Guilty. Finding: Guilty.

Charge II: Violation of Article 92, UCMJ.

Plea: Not Guilty. Finding: Dismissed without prejudice, to ripen into prejudice upon completion of appellate review in which the findings and sentence are affirmed.

Specification: Did, on divers occasions, between on or about 4 September 2020 and on or about 19 September 2020, violate a lawful general order which was his duty to obey, to wit: Paragraph 3.a.(2), Depot Order 1100.6, dated 10 August 2020, by wrongfully engaging in an inappropriate social relationship with Ms. [REDACTED] a prospective applicant. Plea: Not Guilty. Finding: Dismissed without prejudice, to ripen into prejudice upon completion of appellate review in which the findings and sentence are affirmed.

Charge III: Violation of Article 107, UCMJ.

Plea: Not Guilty. Finding: Dismissed without prejudice, to ripen into prejudice upon completion of appellate review in which the findings and sentence are affirmed.

Specification 1: Did, on or about 22 September 2020, with intent to deceive, make to Capt [REDACTED] USMC, official statements, to wit:

- a. That Sgt Bagui never had sex with Ms. [REDACTED] and
- b. That while she lived in Sgt Bagui's apartment, Ms. [REDACTED] slept on a couch in the living room,

which statements were totally false and were then known by the said Sgt Bagui to be so false. Plea: Not Guilty. Finding: Dismissed without prejudice, to ripen into prejudice upon completion of appellate review in which the findings and sentence are affirmed.

(See Addendum Page)

12. Sentence to be Entered. Account for any modifications made by reason of any post-trial action by the convening authority (including any action taken based on a suspension recommendation), confinement credit, or any post-trial rule, order, or other determination by the military judge. R.C.M. 1111(b)(2). If the sentence was determined by a military judge, ensure confinement and fines are segmented as well as if a sentence shall run concurrently or consecutively.

Military Judge: Forfeiture of \$1,255 pay per month for a total of 2 months, reduction to pay-grade E-1 and;

Charge I: Violation of Article 93a, UCMJ.

Specification: 45 days confinement.

No confinement credit awarded.

13. Deferment and Waiver. Include the nature of the request, the CA's Action, the effective date of the deferment, and date the deferment ended. For waivers, include the effective date and the length of the waiver. RCM 1111(b)(3)

N/A.

14. Action convening authority took on any suspension recommendation from the military judge:

N/A.

15. Judge's signature:

CATTO.ERIC.AUSTIN
IN. [REDACTED]

Digitally signed by
CATTO.ERIC.AUSTIN [REDACTED]
Date: 2022.12.13 22:38:54 -10'00'

16. Date judgment entered:

Dec 13, 2022

17. In accordance with RCM 1111(c)(1), the military judge who entered a judgment may modify the judgment to correct computational or clerical errors within 14 days after the judgment was initially entered. Include any modifications here and resign the Entry of Judgment.

[Empty box for modifications]

18. Judge's signature:

19. Date judgment entered:

[Empty box for signature]

[Empty box for date]

CONTINUATION SHEET - ENTRY OF JUDGMENT

11. Findings (Continued)

Specification 2: Did, on or about 17 November 2020, with intent to deceive, make to SA [REDACTED] NCIS, official statements, to wit:

- a. That while she lived in Sgt Bagui's apartment, Ms. [REDACTED] slept on an air mattress in the living room;
- b. That Sgt Bagui did not have any sexual contact with Ms. [REDACTED] that he "never touched" Ms. [REDACTED] and the "most he touched her was having a handshake," or words to that effect; and
- c. That when Sgt Bagui replaced his bedsheets it was because Ms. [REDACTED] said his apartment was "bland" and needed redecorating, or words to that effect,

which statements were false in that:

- a. Sgt Bagui slept with Ms. [REDACTED] on a bed in the bedroom of his apartment;
- b. Sgt Bagui had sex with Ms. [REDACTED] and
- c. Sgt Bagui replaced his bedsheets because Ms. [REDACTED] bled on the sheets during sex,

and was then known by Sgt Bagui to be so false. Plea: Not Guilty. Finding: Dismissed without prejudice, to ripen into prejudice upon completion of appellate review in which the findings and sentence are affirmed.

APPELLATE INFORMATION

**THERE IS NO APPELLATE
INFORMATION AT THIS TIME**

REMAND

THERE WERE NO REMANDS

**NOTICE OF COMPLETION OF
APPELLATE REVIEW**