

**CERTIFIED RECORD OF TRIAL**

(and accompanying papers)

of

Bueno Adrian E. [REDACTED] SSGT/E-6  
(Last Name) (First Name) MI (DoD ID No.) (Rank)

Headquarters and Headquarters Squadron U.S. Marine Corps Marine Corps Air Station Miramar, California  
(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)

Marine Corps Air Station Miramar  
(Unit/Command of Convening Authority)

Tried at

Marine Corps Air Station Miramar, California  
(Place or Places of Trial)

On

31 May, 1 August, and 19 September 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  
MARINE CORPS AIR STATION MIRAMAR  
P.O. BOX 452001  
SAN DIEGO, CA 92145-2001

IN REPLY REFER TO:  
5817  
CO

GENERAL COURT-MARTIAL CONVENING ORDER 1-22

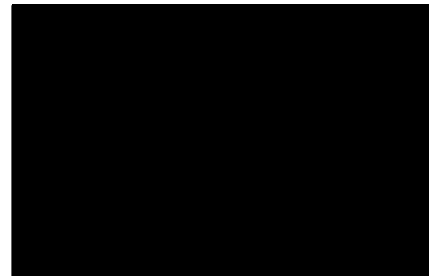
FEB 01 2022

A general court-martial is hereby convened by order of the commanding officer, Colonel [REDACTED], with the following members and shall meet at Marine Corps Air Station Miramar, California, unless otherwise directed.

Members

Major [REDACTED] USMC;  
Major [REDACTED], USMC;  
Captain [REDACTED], USMC;  
Captain [REDACTED], USMC;  
First Lieutenant [REDACTED], USMC;  
Chief Warrant Officer 4 [REDACTED] USMC;  
Chief Warrant Officer 3 [REDACTED] USMC;  
Chief Warrant Officer 2 [REDACTED], USMC;  
Chief Warrant Officer 2 [REDACTED], USMC; and  
Warrant Officer [REDACTED] USMC

[REDACTED]  
Colonel, USMC  
Commanding Officer



# CHARGE SHEET



# CHARGE SHEET

## I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI) BUENO, Adrian E.		2. EDIPI [REDACTED]	3. RANK/RATE SSgt	4. PAY GRADE E-6
5. UNIT OR ORGANIZATION Headquarters & Headquarters Squadron (HqHqRon) Marine Corps Air Station Miramar San Diego, California			6. CURRENT SERVICE a. INITIAL DATE 3 Dec 18 b. TERM 4 yrs 3 mos	
7. PAY PER MONTH a. BASIC \$4.225.50 b. SEA/FOREIGN DUTY None c. TOTAL \$4.225.50			8. NATURE OF RESTRAINT OF ACCUSED None. 9. DATE(S) IMPOSED N/A	

## II. CHARGES AND SPECIFICATIONS

### 10. CHARGE I: VIOLATION OF THE UCMJ, ARTICLE 121

**Specification 1 (Larceny):** In that Staff Sergeant Adrian E. Bueno, U.S. Marine Corps, on active duty, did, at or near [REDACTED] between on or about 30 November 2017 and on or about 29 January 2021, steal Basic Allowance for Housing (BAH), military property, of a value of over \$[REDACTED] the property of the United States.

**Specification 2 (Larceny):** In that Staff Sergeant Adrian E. Bueno, U.S. Marine Corps, on active duty, did, at or near San Diego, California, between on or about 29 January 2021 and on or about 4 February 2022, steal Basic Allowance for Housing (BAH), military property, of a value of over \$1,000, the property of the United States.

### CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 107

**Specification (False Official Statement):** In that Staff Sergeant Adrian E. Bueno, U.S. Marine Corps, on active duty, did, at or near San Diego, California, on or about 29 January 2021, with intent to deceive, sign an official record, to wit: his basic individual record certifying that he was married, or words to that effect, which statement was totally false, and was then known by the said Staff Sergeant Adrian E. Bueno to be so false.

## III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI) [REDACTED]	b. GRADE E-5	c. ORGANIZATION OF ACCUSER HqHqRon, MCAS Miramar, CA
d. SIGNATURE OF ACCUSER [REDACTED]		e. DATE 20220204

**AFFIDAVIT:** Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 4th day of FEBRUARY, 2022, and signed the foregoing charges and specifications under oath that he is a person subject to the Uniform Code of Military Justice and that he either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his knowledge and belief.

A. J. BUSSLER

*Typed Name of Officer*

CAPTAIN, USMC

*Grade and Service*

[REDACTED]

*Signature*

HqHqRon, MCAS Miramar

*Organization of Officer*

TRIAL COUNSEL

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

12. On 4 February, 20 22, 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.)

\_\_\_\_\_  
Typed Name of Immediate Commander

HqHqRon, MCAS Miramar, California

Organization of Immediate Commander

GS11

Grade

\_\_\_\_\_  
Signature

#### IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13. The sworn charges were received at 1543 hours, 4 February 20 22 at HqHqRon, MCAS Miramar,  
Designation of Command or

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

FOR THE COMMANDING OFFICER

LEGAL OFFICER

Official Capacity of Officer Signing

\_\_\_\_\_  
Typed Name of Officer

GS11

Grade

\_\_\_\_\_  
Signature

#### V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

MCAS Miramar

b. PLACE

San Diego, California

c. DATE

19 SEP 22

15 MAY 22

Referred for trial to the special court-martial convened by this document, on which convenes a special

court-martial to be tried by judge-alone pursuant to Article 16(c)(2)(A), UCMJ.

Dated 15 September 20 22, subject to the following instructions: the court may not adjudge punishment in excess

of the limitations specified in Article 19(b), UCMJ, and to be tried in conjunction with the charges and specifications preferred on 7 April 2022.

by Command or Order of Commanding Officer

COMMANDING OFFICER

Official Capacity of Officer Signing

\_\_\_\_\_  
Typed Name of Officer

COLONEL, USMC

Grade

\_\_\_\_\_  
Signature

15. On 19 SEPTEMBER, 20 22, I (caused to be) served a copy hereof on (each of) the above named accused.

A. S. BUSSLER

Typed Name of Trial Counsel

CAPTAIN, USMC

Grade or Rank of Trial Counsel

\_\_\_\_\_  
Signature

#### FOOTNOTES

1 - When an appropriate commander signs personally, inapplicable words are stricken.

2 - See R.C.M. 601(e) concerning instructions. If none, so state.

ORIGINAL



# CHARGE SHEET

## I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI) BUENO, Adrian E.		2. EDIPI [REDACTED]	3. RANK/RATE SSgt	4. PAY GRADE E-6
5. UNIT OR ORGANIZATION Headquarters & Headquarters Squadron (HqHqRon) Marine Corps Air Station Miramar San Diego, California			6. CURRENT SERVICE a. INITIAL DATE 3 Dec 18 b. TERM 4 yrs 3 mos	
7. PAY PER MONTH a. BASIC \$4,225.50 b. SEA/FOREIGN DUTY None c. TOTAL \$4,225.50			8. NATURE OF RESTRAINT OF ACCUSED None. 9. DATE(S) IMPOSED N/A	

## II. CHARGES AND SPECIFICATIONS

### 10. ADDITIONAL CHARGE I: VIOLATION OF THE UCMJ, ARTICLE 107

**Specification (False Official Statement):** In that Staff Sergeant Adrian E. Bueno, U.S. Marine Corps, on active duty, did, at or near San Diego, California, on or about 29 January 2021, with intent to deceive, sign an official record, to wit: his basic individual record certifying that his spouse lives at [REDACTED] or words to that effect, which statement was totally false, and was then known by the said Staff Sergeant Adrian E. Bueno to be so false.

### ADDITIONAL CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 92

**Specification (Dereliction of Duty):** In that Staff Sergeant Adrian E. Bueno, U.S. Marine Corps, on active duty, who knew of his duties at or near San Diego, California, from on or about 29 January 2021 to on or about 4 February 2022, was derelict in the performance of those duties in that he willfully failed to inform his Commanding Officer of a change in his marital status, as it was his duty to do.

## III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI) [REDACTED]	b. GRADE E-6	c. ORGANIZATION OF ACCUSER HqHqRon, MCAS Miramar, CA
d. SIGNATURE OF ACCUSER [REDACTED]		e. DATE 7 APRIL 2022

**AFFIDAVIT:** Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 7th day of April, 2022, and signed the foregoing charges and specifications under oath that he is ~~the~~ <sup>SHE</sup> a person subject to the Uniform Code of Military Justice and that ~~he~~ <sup>she</sup> either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of ~~his~~ <sup>her</sup> knowledge and belief. ~~HER~~

A. J. BUSSLER

Typed Name of Officer

HqHqRon, MCAS Miramar

Organization of Officer

CAPTAIN, USMC

Grade and Service

TRIAL COUNSEL

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

Signature

12. On 7 April, 20 22, 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

HqHqRon, MCAS Miramar, California

Organization of Immediate Commander

GS11  
[Redacted]

Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13. The sworn charges were received at 0930 hours, 7 April, 20 22 at HqHqRon, MCAS Miramar,  
Designation of Command or

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

FOR THE<sup>1</sup> COMMANDING OFFICER

LEGAL OFFICER

Official Capacity of Officer Signing

[Redacted]  
Typed Name of Officer

GS11  
[Redacted]

Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b. PLACE

c. DATE

MCAS Miramar

San Diego, California

15 Sep 22

Referred for trial to the special court-martial convened by this document, on which  
convenes a special court-martial to be tried by judge-alone pursuant to Article 16(c)(2)(A), UCMJ.

Dated 15, September, 20 22, subject to the following instructions: the court may not

adjudge punishment in excess of the limitations specified in Article 19(b), UCMJ, and to be tried in conjunction with the charges and specifications preferred on 4 February 2022.

by [Redacted] of [Redacted]  
Command or Order

[Redacted]  
Typed Name of Officer

COMMANDING OFFICER

Official Capacity of Officer Signing

COLONEL, USMC

Grade

[Redacted]  
Signature

15. On 19 SEPTEMBER, 20 22, I (caused to be) served a copy hereof on (each of) the above named accused.

A.J. BOSSLER

Typed Name of Trial Counsel

CARTAW, USMC

Grade or Rank of Trial Counsel

[Redacted]  
Signature

FOOTNOTES

- 1 - When an appropriate commander signs personally, inapplicable words are stricken.  
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

ORIGINAL



# **TRIAL COURT MOTIONS & RESPONSES**

NAVY-MARINE CORPS TRIAL JUDICIARY  
WESTERN JUDICIAL CIRCUIT  
GENERAL COURT-MARTIAL

UNITED STATES	)	
	)	
v.	)	GOVERNMENT
	)	MOTION IN LIMINE
ADRIAN E. BUENO	)	
Staff Sergeant	)	(Pre-Admit Evidence)
U.S. Marine Corps	)	
	)	20 Jul 2022

**1. Nature of Motion.** Pursuant to Rule for Courts-Martial (R.C.M.) 906(b)(13), the Government respectfully moves this Court to pre-admit prosecution exhibits (PE) 1 and 2 for identification (FID) in accordance with Military Rules of Evidence (MIL. R. EVID.) 402, 803, 902(3), 902(4). Specifically, the government moves this Court to admit the following PEs:

1. PE 1 FID – Staff Sergeant Bueno’s Spanish divorce decree and certified English translation thereof (Enclosure 2); and
2. PE 2 FID – Staff Sergeant Bueno’s Spanish divorce judgement from [REDACTED] and certified English translation thereof (Enclosure 3).

**2. Summary of Facts.**

- a. The Accused is charged with two specifications of violating Article 121, UCMJ, larceny, two specifications of violating Article 107, UCMJ, false official statement, and one specification of violating Article 92, UCMJ, dereliction of duty (Enclosure 4).
- b. On 20 April 2015, the Accused married Ms. [REDACTED] (Enclosure 1).
- c. On 15 June 2015, in [REDACTED] the Accused submitted a dependency application listing Ms. [REDACTED] as his spouse (Enclosure 5).

- d. The Accused listed Ms. [REDACTED] as living at [REDACTED] [REDACTED] (Enclosure 5).
- e. Ms. [REDACTED] never set foot in the United States (Enclosure 6).
- f. On 30 November 2017, the Accused divorced Ms. [REDACTED] (Enclosure 2).
- g. The Spanish divorce decree was stamped and signed by Ms. [REDACTED] [REDACTED] the delegated official, at the Office of Vital Records in [REDACTED] (Enclosure 2).
- h. On December 29, 2020, NCIS investigators requested the assistance of the appropriate authorities in [REDACTED] pursuant to the 2001 [REDACTED], as supplemented by the 2004 U.S. [REDACTED] Mutual Legal Assistance Instrument (Enclosure 7).
- i. In that request, NCIS requested assistance in obtaining an interview with Ms. [REDACTED] as well as certified copies of the Accused's marriage certificate and divorce decree (Enclosure 8).
- j. On 29 January 2021, in San Diego, California, the Accused completed a certification of his basic individual record in which he certified that he was still married to Ms. [REDACTED] (Enclosure 9).
- k. In July 2021, NCIS received certified copies of Spanish court documents pursuant to the MLAT request submitted through the Office of International Judicial Assistance at the Department of Justice (Enclosure 10).
- l. Copies of the divorce decree and divorce judgment were provided at the Judicial Court [REDACTED] (Enclosure 10).
- m. The official records produced to NCIS pursuant to the MLAT request contained a completed certificate form as annexed to the present MLAT between the U.S. and [REDACTED] (Enclosure 11).

n. On 4 February 2022, official records produced to NCIS were produced to the defense (Enclosure 12).

o. Additional documents received pursuant to the MLAT were translated and produced to the Defense on 18 May 2022 (Enclosure 12).

### **3. Discussion.**

#### **A. Legal Standard.**

Evidence is relevant if it has any tendency to make a fact of consequence more or less probable. MIL. R. EVID. 401. Relevant evidence is admissible under MIL. R. EVID. 402. A military judge may exclude relevant evidence if its probative value is substantially outweighed by unfair prejudice. MIL. R. EVID. 403.

Evidence that is otherwise admissible may be self-authenticated at trial without witness testimony. Under MIL. R. EVID. 902(3), foreign public documents are self-authenticating documents. A document that purports to be signed or attested by a person who is authorized by a foreign country's law to do so (1) must be accompanied by a final certification that certifies the genuineness of the signature, and (2) the official position of the signer or attested or of any foreign official whose certificate of genuineness relates to the signature or attestation or is in the chain of certificates of genuineness relating to the signature or attestation. Mil. R. Evid. 902(3). A diplomatic or consular official of the foreign country assigned or accredited to the United States can also attest to these documents. MIL. R. EVID. 902(3) permits relaxation of the certification requirement if all parties have had a reasonable opportunity to examine the documents and good cause is shown because it expressly permits the military judge to order foreign documents to "be treated as presumptively authentic without final certification; or allow [them] to be evidenced by an attested summary with or without final certification."



Under MIL. R. EVID. 902(4), Certified Copies of Public Records are self-authenticating. Pursuant to that rule, a copy of a record is self-authenticating if the copy is a copy of an official record or copy of a document that was recorded in a public office as authorized by law if the copy is certified as correct by (A) a custodian; (B) a certificate complying with federal statute or an applicable regulation prescribed pursuant to statutory authority.

Alternatively, international law provides another avenue to authenticate these documents. The United States has signed a mutual legal assistance treaty with [REDACTED] (“MLAT”). Mutual Legal Assistance, [REDACTED] U.S., art. XIV, Dec. 17, 2004, 2004 U.S.T. LEXIS 245. Article 9 of that treaty provides that official records produced via an MLAT request may be authenticated under the provisions of the Convention Abolishing the Requirement of Legalization for Foreign Public Documents, dated 5 October 1961 (the “1961 convention”). In 1979, the Senate gave its consent to the ratification by the United States of the 1961 convention making it easier for parties than it is under MIL. R. EVID. 902 to authenticate foreign public documents. The convention went into effect in the United States in 1981. 2 Military Rules of Evidence Manual § 902.02 (2022). The MLAT also states that “no further authentication shall be necessary” and “documents authenticated under this paragraph shall be admissible in evidence in the Requesting State.” Mutual Legal Assistance, [REDACTED] U.S., art. XIV, Dec. 17, 2004, 2004 U.S.T. LEXIS 245.

Article 1 of the Convention Abolishing the Requirement of Legalization for Foreign Public Documents, dated 5 October 1961 states that the following are deemed to be public documents: documents emanating from an authority or an official connected with the courts or tribunals of the State, including those emanating from a public prosecutor, a clerk of a court or a process-server. Article 3 states that the *only* formality that may be required in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted is the addition of

the certificate described in Article 4. Article 4 clarifies that the certificate shall be in the form of the model annexed to the 1961 convention. Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, art. IV, Oct. 15, 1981, USCS Authentication of Documents.

Federal case law further reinforces that where there is an appropriate authentication by the requested state, “[n]o further authentication or certification shall be necessary in order for such records to be admissible” in United States court proceedings. *United States v. Odeh*, 815 F.3d 968, 975 (6th Cir. 2016) (citing MLAT with [REDACTED] containing the same language as the MLAT with Spain).

The translations are also self-authenticating. MIL. R. EVID. 902(11) states that certified domestic records of a regularly conducted activity are self-authenticating and require no extrinsic evidence of authenticity to be admitted provided that a copy includes certification of a custodian or other qualified person complying with statute or a rule prescribed by the Supreme Court.

Under MIL. R. EVID. 803(6), such records also present exceptions to the rule against hearsay as a record of a regularly conducted activity. MIL. R. EVID. 803(6)(E) requires a challenging opponent to show that the source of information or the method or circumstance of preparation indicates a lack of trustworthiness by a preponderance of the evidence. If the remaining foundational requirements are satisfied and there is no showing the record is untrustworthy, it is admissible subject to MIL. R. EVID. 403.

#### **B. Application.**

The Spanish divorce decree and judgment are a self-authenticating documents under MIL. R. EVID. 902(3). A document signed by a person who is authorized by a foreign country’s law must be accompanied by a final certification that certifies the genuineness of the signature, and (2)

the official position of the signer. The Spanish divorce decree was stamped and signed by Ms. [REDACTED] the delegated official, at the Office of Vital Records in [REDACTED]. Therefore, having met the requirements set under MIL. R. EVID. 902(3), the Spanish divorce decree is self-authenticating because it is signed, with the official position of the signer listed, and certified as authentic by the stamp. Second, the divorce judgment was published and signed by Justice [REDACTED] of the Provincial Court of [REDACTED]. His official position and title as Justice are listed. Finally, the signature is certified as genuine by a signature ID. Therefore, the Spanish divorce judgment is also self-authenticating. However, if this Court were to find that there is insufficient certification of authenticity, then MIL. R. EVID. 902(3) still permits relaxation of the certification requirement because all parties have had a many months to examine the documents.

Alternatively, either the MLAT or MIL. R. EVID. 902(4)(B) in conjunction with the MLAT provide additional methods of admissibility. In December 2020, NCIS submitted an MLAT request for copies of court documents relevant to its investigation. In June 2021, NCIS received the Spanish-Government officially certified copies of documents that trial counsel seeks to admit. The Spanish divorce decree was stamped and signed by Ms. [REDACTED] the delegated official, at the Office of Vital Records in [REDACTED]. The model certificate annexed to the 1961 convention was properly filled out and included with the documents NCIS received.

The divorce decree and divorce judgment are public documents emanating from an official connected with the courts under 1961 convention. Therefore, the *only* formality that may be required in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted, is the model certificate. That model certificate was included and has been provided by [REDACTED] the requested state. Federal case law under *Odeh* further reinforces that where there is an appropriate authentication by the requested state, “[n]o further authentication

or certification shall be necessary in order for such records to be admissible” in United States court proceedings.

If this court finds the MLAT standing alone to be insufficient, then the requested documents may still be admitted under MIL. R. EVID. 902(4)(B) as Certified Copies of Public Records. Pursuant to that rule, a copy of a record is self-authenticating if the copy is a copy of an official record and if the copy is certified as correct by a certificate complying with federal statute or an applicable regulation prescribed pursuant to statutory authority. Both the divorce decree and judgment are official records and were provided to NCIS and were certified via the annex to the 1961 convention referenced in the 2001 U.S. [REDACTED] MLAT. Therefore, admissibility and authentication of the divorce decree and judgment are covered under three separate MREs. Under Mil. R. Evid. 902(4)(B), the federal statute or applicable regulation prescribed pursuant to statutory authority is the MLAT.

The translations of the Spanish decree and judgment also self-authenticating. MIL. R. EVID. 902(11) states that certified domestic records of a regularly conducted activity are self-authenticating and require no extrinsic evidence of authenticity to be admitted provided that a copy includes certification of a custodian or other qualified person complying with statute or a rule prescribed by the Supreme Court. Both the decree and judgment are accompanied by certifications of accuracy from the translator, along with a corporal seal of the service provider employing the translator. Therefore, the English translations of the Spanish original documents are also self-authenticating.

**4. Relief Requested.** The government requests that Prosecution Exhibits 1 and 2 for identification be admitted into evidence and the words “for identification” be deleted.



**5. Burden of Proof and Evidence.** The government has the burden of proof as the moving party under R.C.M. 905(c)(2)(A). Further, the government is the proponent of the evidence. It is within the military judge's discretion to rule on evidentiary questions prior to trial. R.C.M. 906(b)(13). The government intends to offer the following evidence in support of this motion:

- Enclosure (1): Staff Sergeant Bueno's Spanish marriage certificate and certified English translation thereof;
- Enclosure (2): PE 1 (FID) – Staff Sergeant Bueno's Spanish divorce decree and certified English translation thereof;
- Enclosure (3): PE 2 (FID) – Staff Sergeant Bueno's Spanish divorce judgement from [REDACTED] and certified English translation thereof;
- Enclosure (4): Preferred Charge Sheet;
- Enclosure (5): Dependency Application dated 15 June 2015;
- Enclosure (6): Excerpt of NCIS ROI dated 22 August 2020;
- Enclosure (7): MLAT request dated 29 December 2020;
- Enclosure (8): Excerpt of NCIS ROI dated 11 June 2021;
- Enclosure (9): Certification of Basic Individual Record dated 29 January 2021;
- Enclosure (10): Excerpt of NCIS ROI dated 11 June 2021;
- Enclosure (11): Completed Annex to 1961 Convention; and
- Enclosure (12): Discovery Log.

**6. Oral Argument.** The Government respectfully requests oral argument.

[REDACTED]  
A. J. BUSSLER  
Captain, U.S. Marine Corps  
Trial Counsel

\*\*\*\*\*

**CERTIFICATE OF SERVICE**

I certify that I caused a copy of this document to be served on the Court and opposing counsel on this 20th day of July 2022.



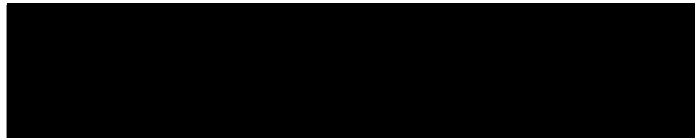
A. J. BUSSLER  
Captain, U.S. Marine Corps  
Trial Counsel

NAVY-MARINE CORPS TRIAL JUDICIARY  
WESTERN JUDICIAL CIRCUIT  
GENERAL COURT-MARTIAL

UNITED STATES  v.  ADRIAN E. BUENO STAFF SERGEANT USMC	DEFENSE RESPONSE TO GOVERNMENT MOTION TO PREADMIT EVIDENCE  (Divorce Documents)  26 JULY 22
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1. NATURE OF MOTION

In accordance with Rule for Courts-Martial (R.C.M.) 906(b)(13) and Military Rules of Evidence 402, 803, 902(3), and 902, the Defense does not object to the Government's evidence and concedes the motion and preadmission of PE 1 FID and PE 2 FID.



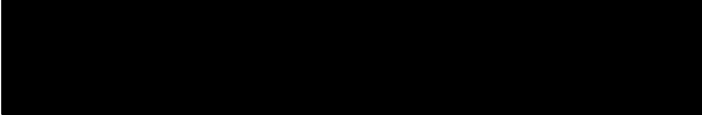
B.J. ROBBINS  
Captain, USMC  
Detailed Defense Counsel

APPELLATE EXHIBIT VII(7)

PAGE 1 OF 2

**CERTIFICATE OF SERVICE**

I certify that I have served a true copy of the above motion by uploading it to the Western  
Judicial Sharepoint on 26 July 2022.



B.J. ROBBINS  
Captain, USMC  
Detailed Defense Counsel

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**APPELLATE EXHIBIT VII**



**UNITED STATES MARINE CORPS  
WESTERN JUDICIAL CIRCUIT  
NAVY-MARINE CORPS TRIAL JUDICIARY  
GENERAL COURT-MARTIAL**

<b>UNITED STATES</b>  <b>v.</b>  <b>ADRIAN BUENO</b> <b>Staff Sergeant</b> <b>U.S. Marine Corps</b>	<b>DEFENSE MOTION TO COMPEL THE PRODUCTION OF WITNESSES</b>  <b>20 July 2022</b>
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1. **Nature of Motion.** The Defense respectfully requests the court compel the production of Maj [REDACTED] and Staff Sergeant [REDACTED] as sentencing witnesses.
2. **Summary of Facts.**
  - a. SSgt Bueno has been charged with two specifications of larceny related to falsely claiming BAH entitlements, two specifications of false official statement relating to his spouses' place of residence and one specification of dereliction of duty for failure to inform his command of his change in marital status.
  - b. The accused has also had a corresponding debt placed on his account of nearly \$285,000 relating to the alleged fraudulent entitlements.
  - c. On 24 June 2022, the defense requested the production of four military character witnesses who would testify in sentencing.
  - h. On 11 July 2022, the government responded denying two witnesses, Major [REDACTED] and Staff Sergeant [REDACTED] as cumulative.

3. **Law.**

There are several rules and statutes that control the production of witnesses before a

APPELLATE EXHIBIT X1(11)

PAGE 1 OF 6

court-martial. Both Article 4, UCMJ, and the R.C.M.'s set forth how witnesses will be produced for the court-martial. R.C.M. 703(a) states that the prosecution and defense shall have equal opportunity to obtain witnesses and evidence, subject to the limitations imposed via 701(e)(1), including the benefit of compulsory process. "[T]hat each party is entitled to the production of evidence which is relevant and necessary." The discussion section of R.C.M. 703(f)(1) defines "necessary" evidence as evidence that contributes to the party's presentation of the case in a positive way on a matter in issue. Military Rules of Evidence (M.R.E.) 401 defines relevant evidence as evidence that tends to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

R.C.M. 701(e) states that each party shall have adequate opportunity to prepare its case and equal opportunity to interview witnesses and inspect evidence, subject to the limitations imposed on the accused's request to interview the alleged victim. Otherwise, no party may unreasonably impede the access of another party to a witness or evidence. Upon timely submission by the Defense of a request for witnesses, the Manual requires Trial Counsel to arrange for the presence of requested witnesses unless the Trial Counsel contends that the witnesses' presence is not required under R.C.M. 703. Upon such contention, the Defense may submit the matter to the Military Judge for decision. *Id.*

While there is no specific provision in the Constitution that provides for the Defense to have a right to obtain evidence, a right of compulsory process has been read into the Sixth Amendment right to present a defense and confront witnesses. *See Washington v. Texas*, 388 U.S. 14, 18 (1967). In *U.S. v. McElhane*y, 54 M.J. 120, 127 (CAAF 2000), the court articulates the following standards for determining whether a witness should be produced:

APPELLATE EXHIBIT X1

Factors to be weighed to determine whether personal production of a witness is necessary include: the issues involved in the case and the importance of the requested witness to those issues; whether the witness is desired on the merits or the sentencing portion of the case; whether the witness's testimony would be merely cumulative; and the availability of alternative to the personal appearance of the witness, such as depositions, interrogatories, or previous testimony. *U.S. v. Tangpuz*, 5 M.J. 426, 429 (CMA 1978). Timeliness of the request may also be consideration when determining whether production of a witness is necessary. R.C.M. 703(c)(3)(C); *U.S. v. Reveles*, 41 M.J. 388, 394 (1995).

Other considerations such as cost, distance, or inconvenience will not deem a witness's testimony irrelevant. *Id.*

Additionally, R.C.M. 703(b)(2) states, "each party is entitled to the production of a witness whose testimony on sentencing is required under R.C.M. 1001(f). R.C.M. 1001(f)(1) does clarify that there should be greater latitude to receive information and evidence in the presentencing phase. However, it further states, "Whether a witness shall be produced to testify during presentencing proceedings is a matter within the discretion of the military judge, subject to the limitations of paragraph (2)." R.C.M. 1001(f)(2)(A) a witness may be produced to testify during presentencing proceedings if "the testimony of the witness is necessary for consideration of a matter of substantial significance to a determination of an appropriate sentence." R.C.M. 1001(f)(2)(B) adds that a witness should be produced for presentencing "if the weight or credibility of the testimony if of substantial significance to the determination of an appropriate sentence."

#### 4. Analysis of the Law

The defense requested four witnesses to testify during the sentencing portion of the trial, one Major, one Captain and two Staff Sergeants. The government granted one officer and one enlisted Marine and denied the remaining two as cumulative. There is a difference between correlating witnesses and cumulative witnesses. An accused who has served well, may have numerous, perhaps dozens of military character witnesses who are willing to testify on his behalf so that the finder of fact has a full picture of his or her military service. Nowhere do the Rules for Court Martial state that an accused is entitled to only one enlisted and one officer to testify on his behalf, and that more than one will be denied as cumulative. The finder of fact, before deciding as grave as potentially sentencing a SNCO to confinement or punitively discharging him would like a full and complete understanding of his career and his duty performance. Certainly, a field grade officer has a different perspective than a company grade officer and different NCO's will have different perspectives and opinions regardless of whether they are the same rank. Calling multiple witnesses to testify that a Marine served well and has rehabilitative potential correlates this notion and is not cumulative. This is particularly important when these sentencing witnesses will undoubtedly be cross examined by the trial counsel. How each witness responds to cross examination is perhaps equally important as how they testify on direct examination.

This is not a case in which the defense seeks to call an entire squad or half of the platoon, it is merely seeking to have four witnesses, two enlisted and two officers, testify regarding the duty performance of an accused who, if convicted, is potentially facing a significant sentence. This is certainly a reasonable request.

APPELLATE EXHIBIT X1

5. **Relief Requested.**

The Defense respectfully requests the Court order the production of Maj [REDACTED]  
and Staff Sergeant [REDACTED]

6. **Evidence**

Enclosure 1: Defense Witness Production Request, dated 24 June 2022

Enclosure 2: Government Response to Witness Production Request, dated 11 July 2022

In support of this motion the Defense will potentially call Major [REDACTED] and Staff  
Sergeant [REDACTED] to testify

7. **Burden of Proof.** The Burden of Proof is on the Defense by preponderance of the  
evidence

8. **Argument.** Defense desires oral argument if the Government opposes this motion.

[REDACTED]

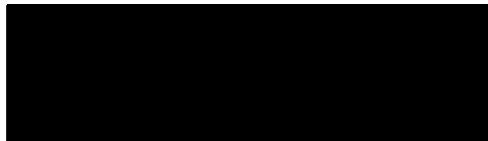
Managing Attorney  
Bilecki Law Group, PLLC

APPELLATE EXHIBIT XI

PAGE 5 OF 6

### **CERTIFICATE OF SERVICE**

I certify that this document was electronically served on the Court and Government Counsel on the date specified herein.



 Timothy Bilecki  
Managing Attorney  
Bilecki Law Group, PLLC

APPELLATE EXHIBIT X1

NAVY-MARINE CORPS TRIAL JUDICIARY  
WESTERN JUDICIAL CIRCUIT  
GENERAL COURT-MARTIAL

UNITED STATES	)	GOVERNMENT RESPONSE TO
	)	DEFENSE MOTION TO COMPEL
v.	)	PRODUCTION OF WITNESSES
	)	
ADRIAN E. BUENO	)	27 July 2022
Staff Sergeant	)	
U.S. Marine Corps	)	
	)	

1. **Nature of Motion.** The Government respectfully requests the Court deny the Defense Motion to Compel Production of Witnesses for failing to make a showing of relevance and necessity.

2. **Summary of Facts.**

a. The Government adopts its summary of facts from the Government Motion in Limine to admit *Res Gestae* and M.R.E. 404(b) evidence in addition to the below facts:

b. On 27 June 2022, the government received the defense's witness requests. (Enclosure 1).

c. The defense requested four witnesses for the presentencing stage:

a. Major [REDACTED] USMC

b. Major [REDACTED] USMC

c. Staff Sergeant [REDACTED] USMC

d. Staff Sergeant [REDACTED] USMC

d. On 11 July 2022 the government granted Major [REDACTED] and Staff Sergeant [REDACTED] (Enclosure 2).

e. On 20 July 2022 the defense submitted a motion to compel Major [REDACTED] and Staff Sergeant [REDACTED] (*See* Defense Motion to Compel Witnesses).

### 3. Discussion.

#### A. Legal Standard

Military Rule of Evidence (M.R.E.) 401 defines relevant evidence as that which has “any tendency to make a fact more or less probable than it would be without the evidence; and that fact is of consequence in determining the action.”

M.R.E. 403 provides the Military Judge discretion to exclude relevant evidence when “probative value is substantially outweighed by a danger of...needlessly presenting cumulative evidence” (*See also* Rules for Courts-Martial (R.C.M.) 703(b)(1) Discussion, “Relevant testimony is necessary when it is not *cumulative*...”).

R.C.M. 703(b)(1) allows for production of witnesses if their testimony is “relevant and necessary” (*See also* R.C.M. 703(e)(1), explaining parties have the right to evidence that is “relevant and necessary.”). Further, defense counsel are expected to include a “synopsis of the expected testimony sufficient to show its relevance and necessity.” A synopsis of expected testimony requires an explanation of what the witness is expected to testify to (*See United States v. Rockwood*, 52 M.J. 98, 105 (C.A.A.F. 1999): “Moreover, the requirement of RCM 703(c)(2)(B)(i) for a synopsis of expected testimony is not satisfied by merely listing subjects to be addressed; rather, it must set out what the witness is expected to say about those subjects.”).

In *United States v. Allen*, the court set forth a minimum of three questions the military judge must resolve in determining whether witnesses are cumulative: (1) Is the credibility and demeanor of the requested witness greater than that of the attending witness; (2) Is the testimony of the requested witness relevant to the accused with respect to character traits or other material evidence observed during periods of time different than that of the attending witness; and (3) Will



any benefit accrue to the accused from an additional witness saying the same thing other witnesses have already said. 31 M.J. at 611 (N.M.C.M.R. 1990).

## **B. Application**

The Defense has failed to meet their burden to prove that the testimony of the requested witnesses are relevant and necessary for sentencing under R.C.M. 703(c)(2)(B)(ii). Turning to the requested witnesses:

Major [REDACTED] USMC: Defense has not met its burden in proving that Major [REDACTED] is a relevant and necessary witness. Defense is requesting this witness to testify to the accused's "good military character, duty performance and rehabilitative potential."

Major [REDACTED] met the accused in 2019 but did not work as his Officer-in-Charge ("OIC") until June 2020, when he was the accused's OIC for only one year. In contrast, Major [REDACTED] who has been previously granted by the government, held the same position over the accused for a longer period (around 2017 until 2019) and has known the accused longer than Major [REDACTED] (having met the accused in 2015).

The defense is correct that "a field grade officer has a different perspective than a company grade officer." However, Major [REDACTED] and Major [REDACTED] are both field grade officers, and they both acted as OIC for the accused. The Defense requests both to testify to the "good military character, duty performance and rehabilitative potential" of the accused without any further justification. Major [REDACTED] acted as the OIC for the accused significantly longer than Major [REDACTED] and during the period of time that is most relevant to the charged offenses. Major [REDACTED] does not provide any substantive testimony different from Major [REDACTED]. No additional benefit is accrued to the accused by his testimony.

Under the *Allen* factors, Major [REDACTED] testimony would be cumulative of Major

██████████ who is more qualified and reliable, and defense has failed to show how he is necessary and relevant.

Staff Sergeant ██████████ USMC: Defense has not met its burden in proving that Staff Sergeant ██████████ (“SSgt ██████████”) is a relevant and necessary witness. Defense requests this witness to testify about the accused’s “good military character, duty performance and rehabilitative potential.”

SSgt ██████████ met the accused in 2016, whereas SSgt ██████████ another sentencing witness previously granted by the government, met the accused in either the end of 2013 or the beginning of 2014. Both consider the accused a mentor, but SSgt ██████████ has had the opportunity to witness the accused’s growth from a corporal to Staff Sergeant, whereas SSgt ██████████ has only known the accused since he was a Sergeant. Both witnesses consider him a mentor, and both would testify to working with him in ██████████ SSgt ██████████ is more qualified to testify because he witnessed the career of the accused for longer than SSgt ██████████

The defense argues that because more than one Marine can be called to “correlate” the rehabilitative potential of the accused, then the same testimony from another witness is not cumulative. However, the defense failed to show how SSgt ██████████ correlates SSgt ██████████ testimony when they merely repeat each other. They knew the accused at the same time and under the same circumstances.

The defense accrues no benefit from SSgt ██████████ testimony. He has known the accused at least two and possibly three years fewer than SSgt ██████████ and defense has not submitted a sufficient synopsis of the expected testimony for either witnesses to sufficiently show their relevance and necessity. Therefore, under the *Allen* factors SSgt ██████████ is cumulative to another witness and the appropriate witness, SSgt ██████████ has been granted.

4. **Relief Requested.**

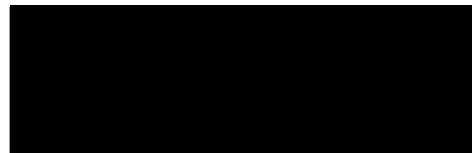
The Government respectfully requests that the Court deny the Defense Motion to Compel Production of Witnesses for failing to make a showing of relevancy and necessity.

5. **Evidence.** The Government offers the following evidence:

- Enclosure 1 – Defense Witness Request
- Enclosure 2 – Government Response to Defense Witness Request
- Enclosure 3 – Proofer Notes for Major [REDACTED]
- Enclosure 4 – Proofer Notes for Major [REDACTED]
- Enclosure 5 – Proofer Notes for Staff Sergeant [REDACTED]
- Enclosure 6 – Proofer Notes for Staff Sergeant [REDACTED]

6. **Burden of Proof.** The burden is on the Defense by a preponderance of the evidence.

7. **Oral Argument.** The Government requests oral argument.



C. C. SANFORD  
Captain, U.S. Marine Corps  
Trial Counsel

**UNITED STATES MARINE CORPS  
WESTERN JUDICIAL CIRCUIT  
NAVY-MARINE CORPS TRIAL JUDICIARY  
GENERAL COURT-MARTIAL**

<b>UNITED STATES</b>  <b>v.</b>  <b>ADRIAN BUENO</b> <b>Staff Sergeant</b> <b>U.S. Marine Corps</b>	<b>DEFENSE MOTION TO COMPEL THE PRODUCTION OF AN EXPERT CONSULTANT AND WITNESS IN DFAS ENTITLEMENTS AND THE JFTR</b>  <b>20 July 2022</b>
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1. **Nature of Motion.** The Defense respectfully requests that this Court order the appointment CW03 [REDACTED] as a Defense confidential expert consultant and expert witness in the area of DFAS entitlements and the JFTR.

2. **Summary of Facts.**

a. SSgt Bueno has been charged with two specifications of larceny related to falsely claiming BAH entitlements, two specifications of false official statement relating to his spouses' place of residence and one specification of dereliction of duty for failure to inform his command of his change in marital status.

b. The accused has also had a corresponding debt placed on his account of nearly \$285,000 relating to the alleged fraudulent entitlements. The local finance office at MCAS Miramar has been heavily engaged in the audit of SSgt Bueno's account as well as engaged in attempts to seek collection of the debt.

c. The evidence primarily consists of USMC financial and accounting documents involving BAH, OHA and other entitlements per the JFTR.

d. The defense team spoke at length with CW03 [REDACTED] the Assistant Finance Officer at

MCRD, Parris Island, regarding his qualifications, his ability to conduct an independent audit and his willingness to consult with the defense team. CW03 [REDACTED] was eminently qualified, had previously consulted with both the government and defense in similar type cases and was qualified and testified at trial as an expert witness in the field of DFAS entitlements and the JFTR.

f. CW03 [REDACTED] has availability to consult and can travel to San Diego for this court martial to testify should that be required by the defense.

g. On 24 June 2022, the defense requested the appointment of CW03 [REDACTED] as an expert consultant.

h. On 11 July 2022, the government responded stating that the convening authority approved CW03 [REDACTED] as an adequate substitute.

g. Both the undesignated counsel and detailed defense counsel have attempted to contact CW03 [REDACTED] but the Warrant Officer has been unresponsive.

### **3. Law.**

A military accused is guaranteed Due Process and the effective assistance of counsel by the United States Constitution. U.S. CONST. amend. V-VI. In following, a military accused is entitled to expert assistance in preparing for trial when necessary for an adequate defense. *United States v. Garries*, 22 M.J. 288, 290 (C.M.A 1986); *United States v. Turner*, 28 M.J. 487, 488 (C.M.A. 1989). An accused's entitlement to expert assistance is not limited to actual expert testimony at trial. The entitlement to that expertise is available "before trial to aid in the preparation of his defense upon a demonstration of necessity." *United States v. Bresnahan*, 62 M.J. 137, 143 (C.A.A.F. 2005); *see also Garries*, 22 M.J. at 290-91.

In other words, military courts have explained that there are two ways in which an expert

may assist the defense: (1) “as a witness to testify at trial” and (2) “as a consultant to advise the accused and his counsel as to the strength of the government case and suggest questions to be asked of prosecution witnesses, evidence to be offered by the defense, and argument to be made.” *United States v. Turner*, 28 M.J. 487, 488 (C.M.A. 1989).

To show necessity, an accused must show more than a “mere possibility of assistance from a requested expert;” rather, an accused must show that a “reasonable probability exists ‘both that an expert would be of assistance to the defense and that denial of expert assistance would result in a fundamentally unfair trial.’” *Bresnahan*, 62 M.J. at 143, (quoting *United States v. Gunkle*, 55 M.J. 26, 31 (C.A.A.F. 2001) (quoting *United States v. Robinson*, 39 M.J. 88, 89 (C.M.A. 1994))).

Courts apply a three-part test to determine whether expert assistance is necessary. “The defense must show: (1) why the expert assistance is needed; (2) what the expert assistance would accomplish for the accused; and (3) why the defense counsel were unable to gather and present the evidence that the expert assistance would be able to develop.” *Bresnahan*, 62 M.J. at 143 (citing *United States v. Gonzalez*, 39 M.J. 459, 461 (C.M.A. 1994)); *United States v. Ndayi*, 45 M.J. 315, 319 (C.A.A.F. 1996)).

As the Court of Appeals for the Armed Forces has noted, “[w]hile establishing the need for a particular expert consultant may require an accused to reveal his theory of the case and lose the element of surprise, counsel must weigh these factors against all others in making the decision whether to request additional expert assistance.” *United States v. Warner*, 59 M.J. 573, 580 (C.A.A.F. 2003) (citation omitted). The Court enumerated possible ways to do this, including explaining how an expert consultant can establish weaknesses in the evidence links of the Government’s evidence, how an expert would help develop cross-examination to cast doubt

on the Government's case, or how the expert supports a particular defense theory of the case. *Id.* (citing *United States v. Allen*, 31 M.J. 572 (N.M.C.M.R. 1990)).

For these reasons, when appointed as a member of the defense team, the resulting communications with an expert are protected by attorney-client privilege and attorney work product. R.C.M. 502(a).

#### **4. Argument.**

The Government is expected to qualify one of its witnesses as an expert in military finance and administration. As a result, CWO3 [REDACTED] assistance is necessary to evaluate and understand the finance records, conduct an independent audit and to assist the Defense in its cross-examination of the government expert. CWO3 [REDACTED] analysis of SSgt Bueno's entitlements will also assist the Defense in building its case and rebutting the Government's expert. His analysis may also help the Defense understand, explain, and mitigate the accused's actions.

As such, CWO3 [REDACTED] can also evaluate all the evidence in this case, consider it through the lens of his specific expertise, and help the Defense prepare its case. This would include preparation for the theory of the Defense, advising the Defense on the relevance of evidence, and attending the trial and assessing the testimony of Government witnesses and experts. Furthermore, CWO3 [REDACTED] can assist the Defense in preparing a cross examination of the Government expert and can advise the Defense on whether his testimony as an expert witness would be appropriate. In addition, CWO3 [REDACTED] can audit the accused account and independently determine the amount of potential overpayment, if any.

CWO3 [REDACTED] is an active-duty Marine who is a subject matter expert in his field and can be secured at no cost to the United States, with the exception of any TAD

expenses. The Government apparently concurs with the Defense that an expert is relevant and necessary based on their own employment of an expert and the granting of an adequate substitute. However, the Warrant Officer who has been appointed to the defense has been nonresponsive to requests for an interview by the Defense. Meanwhile, CW03 [REDACTED] has been extraordinarily cooperative and engaged with the Defense and is ready to proceed immediately after appointment by either the Convening Authority or the Court. One is not an adequate substitute if they are not willing to engage with the defense in the process.

Further, it may become necessary for the expert consultant to testify at trial, something Defense Counsel cannot do himself. The expert must be comfortable in the courtroom, be able to withstand cross-examination, and have a working knowledge of the military rules of evidence to know what testimony is admissible and what is not. CW03 [REDACTED] has military courtroom experience as an expert witness and if necessary, will be able to testify at trial.

### **Conclusion.**

The Defense has fully demonstrated that an expert in DFAS entitlements and the JTFR is necessary and relevant to SSgt Bueno's. It has further demonstrated why CW03 [REDACTED] is the right consultant for the job. The defense can only infer that the government has denied CW03 [REDACTED] because it may have to incur TAD costs for his travel, which is problematic. The Defense does not have to inform the Government that it is expensive to court martial service members. Conversely, SSgt Bueno is aware that it is expensive to be court martialed. If this court martial process hinges on the Government's stewardship of taxpayer dollars, then it is odd that Congress established this tribunal in the first place. It further boggles the mind as to why congress would then go on to purposely create a system in which the same Government charged with prosecuting



the Accused must also pay for his expert consultants. We assume that Congress did not intend for the Accused's trial team to be selected by the prosecution as well. The Defense can only guess that Congress designed this system to be administered by commissioned officers, acquainted with fair dealing among the other principles relevant to its mandate.

The Defense requests that the expert consultant be viewed as a member of the defense team such that all communications between the expert consultant and the accused and his counsel will be viewed as confidential. The Defense further requests that the government not have any conversations or other interaction with the requested expert consultant in relation to this case except for any administrative communications in securing his assistance for the Defense. The Defense understands this limitation may be removed if the Defense eventually desires to have the expert testify in the case.

**5. Evidence and Burden of Proof.**

Enclosure 1: Expert Consultant Request, dated 24 June 2022

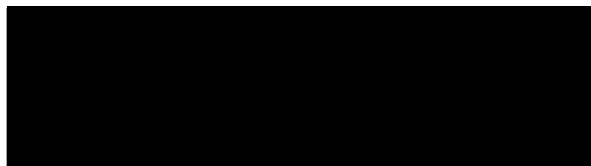
Enclosure 2: Email denial of Defense Expert Consultant request, dated 11 July 2022

Under RCM 905(c)(2), the defense bears the burden of persuasion.

Under RCM 905(c)(1), the standard of proof is a preponderance of the evidence.

**6. Relief Requested.** That the subject motion be granted.

**7. Argument.** Defense desires oral argument if the Government opposes this motion.



Timothy Bilecki  
Managing Attorney  
Bilecki Law Group, PLLC

### **CERTIFICATE OF SERVICE**

I certify that this document was electronically served on the Court and Government Counsel on the date specified herein.



 Timothy Bilecki  
Managing Attorney  
Bilecki Law Group, PLLC

UNITED STATES MARINE CORPS  
NAVY-MARINE CORPS TRIAL JUDICIARY  
WESTERN JUDICIAL CIRCUIT  
GENERAL COURT-MARTIAL

UNITED STATES

v.

ADRIAN E. BUENO  
STAFF SERGEANT  
U.S. MARINE CORPS

GOVERNMENT RESPONSE TO  
DEFENSE MOTION TO COMPEL  
PRODUCTION OF EXPERT  
CONSULTANT AND WITNESS IN  
DFAS ENTITLEMENTS AND THE  
JFTR

(CWO3 [REDACTED])

27 JULY 2022

1. **Nature of the Response.** The Government hereby opposes the Defense motion to compel the appointment of their chosen expert consultant when an adequate government substitute exists. The Defense has not shown why their requested expert is required and therefore their motion should be **DENIED**.

2. **Facts.**

- a. The Accused is charged two specifications of larceny, two specifications of false official statement, and one specification of dereliction of duty.
- b. On 24 June 2022, in accordance with the TMO, Defense requested the appointment of CWO3 [REDACTED] as a confidential expert consultant in DFAS entitlements and the JFTR. (Enclosure 1).
- c. In the same document, the Defense requests that the Government produce their chosen expert during the week of trial for consultation.
- d. CWO3 [REDACTED] is stationed at MCRD Parris Island, South Carolina.
- e. On 11 July 2022, Mr. [REDACTED] the deputy director of IPAC at Camp Pendleton, nominated CWO3 [REDACTED] as a confidential expert consultant in DFAS entitlements and the JFTR to assist the Defense as an adequate government substitute.

- f. CWO3 [REDACTED] is stationed at Camp Pendleton, California.
- g. On 11 July 2022, in accordance with the TMO, the convening authority denied the Defense request for CWO3 [REDACTED] and provided CWO3 [REDACTED] as an adequate substitute. (Enclosure 2).
- h. CWO3 [REDACTED] states she is ready to assist the Defense, although she is TAD in the week of 25 July 2022. (Enclosure 3).

### 3. Discussion and Analysis.

The right of an accused to present a defense is “a fundamental element of due process”; however, that right is not unlimited and may be reasonably curtailed. *Winer v. Wolfenbarger*, No. 2:09-CV-10192, 2011 U.S. Dist. LEXIS 59441, at \*31 (E.D. Mich. June 3, 2011); citing *Washington v. Texas*, 338 U.S. 15, 19 (1967) and *United States v. Scheffer*, 523 U.S. 303, 308 (1998). The Government concurs with the Defense that an expert is relevant and necessary for the Defense case, but does not concur with the Defense that CWO3 [REDACTED] is not willing to engage with the Defense. CWO3 [REDACTED] was immediately responsive to Government trial counsel and was specifically nominated by the Deputy Director for IPAC at Camp Pendleton to assist the Defense. While she is TAD for one week, CWO3 [REDACTED] has stated she will be on deck on 1 August 2022 and is willing to assist the Defense.

Defense counsel state they attempted to contact CWO3 [REDACTED] but that she has been unresponsive without providing when and how they attempted to contact her. When e-mailed, CWO3 [REDACTED] responded on the same day.

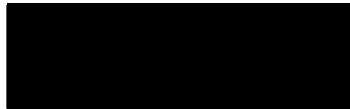
Defense points out that CWO3 [REDACTED] is an active duty Marine who is a subject matter expert in his field and can be secured at no cost to the United States. The same is true for CWO3 [REDACTED]. However, unlike CWO3 [REDACTED] CWO3 [REDACTED] can consult with the Defense in person before

trial and during trial because she is located in the same area. Therefore, she is more readily available to the Defense than their requested expert consultant.

4. **Relief Requested.** The Government respectfully requests that this Court **DENY** the Defense motion to compel.

5. **Burden of Proof.** The Defense bears the burden by a preponderance of the evidence.

6. **Oral Argument.** The Government requests oral argument.

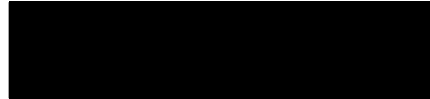


A. J. BUSSLER  
Captain, U.S. Marine Corps  
Trial Counsel

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CERTIFICATE OF SERVICE

A copy of this response was electronically served upon the Court and Defense on 27 July 2022.



A. J. BUSSLER  
Captain, U.S. Marine Corps  
Trial Counsel

**UNITED STATES MARINE CORPS  
NAVY-MARINE CORPS TRIAL JUDICIARY  
WESTERN JUDICIAL CIRCUIT  
GENERAL COURT-MARTIAL**

UNITED STATES	)	
	)	
	)	GOVERNMENT MOTION IN LIMINE
v.	)	
	)	(Pre-Admit Evidence)
ADRIAN E. BUENO	)	
Staff Sergeant	)	12 September 2022
U.S. Marine Corps	)	
	)	

1. **Nature of Motion.** Pursuant to Rule for Courts-Martial (R.C.M.) 906(b)(13), the Government respectfully moves this Court to pre-admit prosecution exhibits (PE) 5 for identification (FID) in accordance with Military Rules of Evidence (M.R.E.) 402, 801, 802, 803, and 902. Specifically, the Government moves this court to admit the following PE:

1. PE 5 FID – U. S. Customs and Border Protection Record of Border Crossings for Ms. [REDACTED] (BS 2517-2521).

2. **Summary of Facts.**

- a. The Accused is charged with two specifications of violating Article 121, UCMJ, larceny, two specifications of violating Article 107, UCMJ, false official statement, and one specification of violating Article 92, UCMJ, dereliction of duty.
- b. On 7 September 2022, the Government received records from U. S. Customs and Border Protection with a certificate from the Custodian of Records, [REDACTED] (Enclosure 1 at BS 2517).
- c. On the same day, the Government discovered these records to the Defense (Enclosure 2).

### **3. Discussion.**

#### **A. Legal Standard**

M.R.E. 801 defines “hearsay” as an out-of-court statement offered to prove the truth of the matter asserted. M.R.E. 802 prohibits hearsay unless permitted by the Military Rules of Evidence or by a federal statute applicable to courts-martial.

M.R.E. 803 provides certain exceptions regardless of whether the declarant is available as a witness; most notably, M.R.E. 803(6) excepts “records of regularly conducted activity” from the hearsay rule of exclusion. A “record of regularly conducted activity” includes a records of an act, conditions, opinion, or diagnosis if: (A) the record was made at or near the time by – or from information transmitted by – someone with knowledge; (B) the record was kept in the course of regularly conducted activity of a uniformed service, business, institution, association, profession, or organization; (C) making the record was a regular practice of that activity; (D) all these conditions are shown by the testimony of the custodian or other qualified witness, or by a certificate that complies with M.R.E. 902(11) or with a statute-permitted certification in a criminal proceeding in a court of the United States; and (E) the opponent does not show that the source of the information or the method of circumstance of preparation indicate a lack of trustworthiness.

M.R.E. 803(8) excludes from hearsay “a record or statement of a public office if it sets out the office’s activities; a matter observed while under a legal duty to report, but not including a matter observed by law-enforcement personnel and other personnel acting in a law enforcement capacity; or against the government, factual findings from a legally authorized investigation; and the opponent does not show that the source of the information or other circumstances indicate a lack of trustworthiness.”



M.R.E. 901 permits “authentication” of evidence, through certain methods in which a proponent of the evidence can support a finding that the item is what the proponent claims it to be. M.R.E. 902 defines which evidence is “self-authenticating” and does not require extrinsic evidence of authenticity. M.R.E. 902(4a) defines “certified copies of public records” as self-authenticating if “a copy of the official record – or a copy of a document that was recorded or filed in a public office as authorized by law – if the copy is certified as correct by a custodian or other person authorized to make the certification...” M.R.E. 902(4a) further permits documents or records of the United States accompanied by attesting certificates as “self-authenticating” if the document or record is “kept under the authority of the United States by any department, bureau, agency, office, or court thereof when attached to or accompanied by an attesting certificate of the custodian of the document or record.” Lastly, under M.R.E. 902(11), certified domestic records of regularly conducted activity are self-authenticated when “the original or copy of a domestic record meets the requirements of M.R.E. 803(6)(A)-(C), as shown by a certification or another qualified person that complies with a federal statute or a rule prescribed by the Supreme Court.”

### **B. Application**

M.R.E. 802 allows exceptions to hearsay when an exception under a different M.R.E. is applicable. Here, under M.R.E. 803(6), the records from CBP are records of regularly conducted activity and are therefore excluded from the hearsay rule. U.S. Customs and Border Protection is a government agency and operates in a law enforcement capacity in the Department of Homeland Security (DHS). Maintaining and reporting records of border crossings, through the air, land, or sea, is a regular business practice for CBP and DHS in general. In accordance with M.R.E. 902(11), [REDACTED] certified that the CBP records showing that neither a “[REDACTED] [REDACTED] nor a [REDACTED] were made and kept in the

course of regularly conducted business for CBP and are true and correct copies of the same (Enclosure 1 at 2517).

These records are additionally excluded from hearsay under M.R.E. 803(8) as public records of the government. Therefore, Ms. [REDACTED] attesting certificate meets the requirements under M.R.E. 902(4a) and the document is self-authenticating.

4. **Relief Requested.** The Government requests that Prosecution Exhibit 5 FID be admitted into evidence and the words “for identification” be deleted.

5. **Burden of Proof and Evidence.** The government has the burden of proof as the moving party under R.C.M. 905(c)(2)(A). Further, the government is the proponent of the evidence. It is within the military judge’s discretion to rule on evidentiary questions prior to trial. R.C.M. 906(b)(13). The government intends to offer the following evidence in support of this motion:

Enclosure (1): PE 5 (FID) U. S. Customs and Border Protection Record of Border Crossings for Ms. [REDACTED] (BS 2517-2521); and

Enclosure (2): Discovery Log dated 7 September 22;

6. **Oral Argument.** The Government respectfully requests oral argument.

[REDACTED]

C. C. SANFORD  
Captain, USMC  
Trial Counsel

\*\*\*\*\*

A true copy of this motion was served on the Court and Defense Counsel on 12 September 2022.



C. C. SANFORD  
Captain, USMC  
Trial Counsel

# REQUESTS

**THERE ARE NO REQUESTS**

# NOTICES

**UNITED STATES MARINE CORPS  
NAVY-MARINE CORPS TRIAL JUDICIARY  
GENERAL COURT-MARTIAL**

<b>UNITED STATES</b>  <b>v.</b>  <b>ADRIAN E. BUENO</b> <b>Staff Sergeant, U.S. Marine Corps</b>	<b>CIVILIAN DEFENSE COUNSEL NOTICE OF APPEARANCE</b>  <b>31 May 2022</b>
---	--

1. I, TIMOTHY J. BILECKI, hereby provide notice of my appearance on behalf of Staff Sergeant Adrian Bueno. My office address and e-mail address are: [REDACTED]

[REDACTED] I am an active member in good standing licensed to practice in the State of Florida, and in all military jurisdictions.

2. I understand that practice in this Circuit requires me to be familiar with the Uniform and Circuit rules. Additionally, I am aware of the standards of military courts-martial. I certify that I am not now, nor have I ever been, de-certified or suspended from practice in any courts-martial proceeding.

[REDACTED]

Timothy J. Bilecki  
Managing Attorney  
Bilecki Law Group, PLLC

APPELLATE EXHIBIT II (2)

PAGE 1 OF 1



# **COURT RULINGS & ORDERS**

NAVY-MARINE CORPS TRIAL JUDICIARY  
WESTERN JUDICIAL CIRCUIT  
GENERAL COURT MARTIAL

UNITED STATES	)	
	)	
v.	)	JOINT MOTION FOR APPROPRIATE RELIEF
	)	
ADRIAN E. BUENO	)	(Continuance)
Staff Sergeant	)	
U.S. Marine Corps	)	22 July 2022
	)	

1. **Nature of Motion.** Pursuant to Rule for Court-Martial (R.C.M.) 906(b)(1), the Government and Defense jointly request that the Court continue the above-captioned trial from its currently docketed date of 19 September 2022 to 17 October 2022, in order to provide counsel on both sides sufficient time conduct a deposition overseas and prepare for its use at trial.

2. **Summary of Facts.**

- a. Staff Sergeant Bueno is pending charges of violations of Article 121 (Larceny), Article 107 (False Official Statement), and Article 92 (Dereliction of Duty) related to an alleged BAH-fraud scheme.
- b. Staff Sergeant Bueno was previously married to Ms. [REDACTED] a citizen of [REDACTED] and a key witness to the alleged BAH-fraud in this case.
- c. On 29 June 2022, the Convening Authority ordered the deposition of Ms. [REDACTED] in [REDACTED] [REDACTED] and appointed a deposition officer.
- d. On 22 August 2022, government and defense counsel will conduct a deposition of Ms. [REDACTED] in [REDACTED]

e. Upon completion of the deposition, the deposition will need to be transcribed and translated.

At that point, the parties will seek rulings on objections, rulings on the non-availability of the witness, and rulings on the admissibility of the deposition at trial.

3. **Law.** According to discussion to the Rule for Courts-Martial (R.C.M.) 906(b)(1), the military judge “should, upon a showing of reasonable cause, grant a continuance to any party for as long as often as is just.” The Discussion to R.C.M. 906(b)(1) states in pertinent part: “Reasons for a continuance may include: insufficient opportunity to prepare for trial; [and] unavailability of an essential witness...” Both parties will be participating in a deposition of a key witness in [REDACTED] on 22 August 2022. That deposition will then need to be transcribed and translated prior to its use. Additionally, both sides anticipate further litigation on objections made during the deposition, Ms. [REDACTED] unavailability, and the deposition’s admissibility. The currently docketed dates will greatly inhibit both parties’ abilities to adequately prepare for trial as it will be less than one (1) month between the foreign deposition and the scheduled trial, with necessary and perhaps, extensive, litigation in between.

4. **Relief Requested.** The government and defense jointly request that the currently docketed trial of *United States v. Staff Sergeant Adrian Bueno* be continued to 17-21 October 2022. The parties request that the second Article 39(a) session be rescheduled for 19 September 2022. The Government further requests the following trial milestones:

- a) The second motions deadline on 5 September 2022;
- b) Responses to motions on 12 September 2022;
- c) Written notice of certain defenses on 26 September 2022;
- d) Written notice of pleas and forum on 26 September 2022; and
- e) Final pretrial matters on 30 September 2022.

5. **Argument.** No oral argument is requested unless desired by the Court.

Dated this 22nd day of July 2022.



A. J. BUSSLER  
Captain, U.S. Marine Corps  
Trial Counsel



B. J. ROBBINS  
Captain, U.S. Marine Corps  
Defense Counsel

---

CERTIFICATE OF SERVICE

A copy of this motion was electronically served upon the Court and Defense on this date: 22 July 2022.



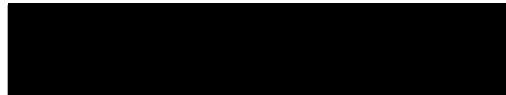
A. J. BUSSLER  
Captain, U.S. Marine Corps  
Trial Counsel

\*\*\*\*\*

**Court Ruling**

The above request is approved/disapproved/approved in part.

Trial will commence on 17 OCT 22.



A. C. GOODE  
Lieutenant Colonel, U.S. Marine Corps  
Military Judge

# STATEMENT OF TRIAL RESULTS

# STATEMENT OF TRIAL RESULTS

## SECTION A - ADMINISTRATIVE

1. NAME OF ACCUSED (last, first, MI) BUENO, Adrian, E.	2. BRANCH Marine Corps	3. PAYGRADE E-6	4. DoD ID NUMBER [REDACTED]
5. CONVENING COMMAND HqHqRon, MCAS Miramar, San Diego	6. TYPE OF COURT-MARTIAL Special (referred judge alone)	7. COMPOSITION Judge Alone - MJA16	8. DATE SENTENCE ADJUDGED Sep 19, 2022

## SECTION B - FINDINGS

SEE FINDINGS PAGE

## SECTION C - TOTAL ADJUDGED SENTENCE

9. DISCHARGE OR DISMISSAL Not adjudged	10. CONFINEMENT 30 days	11. FORFEITURES \$1600.00 per mo for 6 months	12. FINES none	13. FINE PENALTY N/A
14. REDUCTION E-3	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
--	--	------------------------------------

## SECTION E - PLEA AGREEMENT OR PRE-TRIAL AGREEMENT

24. LIMITATIONS ON PUNISHMENT CONTAINED IN THE PLEA AGREEMENT OR PRE-TRIAL AGREEMENT Punitive Discharge is not authorized; Confinement shall be 30 days; Forfeitures may be adjudged; No fine shall be adjudged; Reduction in grade shall be to E-3; and no other lawful punishments may be adjudged.
--

## SECTION F - SUSPENSION OR CLEMENCY RECOMMENDATION

25. DID THE MILITARY JUDGE RECOMMEND SUSPENSION OF THE SENTENCE OR CLEMENCY? 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 OR CLEMENCY 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) Goode, Andrea, C.	34. BRANCH Marine Corps	35. PAYGRADE O-5	36. DATE SIGNED Sep 19, 2022	38. JUDGE'S SIGNATURE GOODE.ANDR EA.CHAMPAG NE. [REDACTED] Digitally signed by GOODE.ANDR EA.CHAMPAG AMPAGNE Date: 2022.09.19 10:24:03 -07'00'
37. NOTES [REDACTED]				

## STATEMENT OF TRIAL RESULTS - FINDINGS

## SECTION I - LIST OF FINDINGS

CHARGE	ARTICLE	SPECIFICATION	PLEA	FINDING	ORDER OR REGULATION VIOLATED	LIO OR INCHOATE OFFENSE ARTICLE	DIBRS
Charge I	121	Specification 1:	Guilty	Guilty			121-A2
		Offense description	Larceny of military property of a value of more than \$1000 or military firearm or explosive or vehicle				
		Specification 2:	Not Guilty	W/D			121-A2
		Offense description	Larceny of military property of a value of more than \$1000 or military firearm or explosive or vehicle				
		Withdrawn and Dismissed	The withdrawn charge and specification will be dismissed without prejudice to ripen into prejudice.				
Charge II	107	Specification:	Not Guilty	W/D			107-B-
		Offense description	False official statement				
		Withdrawn and Dismissed	The withdrawn charge and specification will be dismissed without prejudice to ripen into prejudice.				
Additional Charge I	107	Specification:	Not Guilty	W/D			107-B-
		Offense description	False official statement				
		Withdrawn and Dismissed	The withdrawn charge and specification will be dismissed without prejudice to ripen into prejudice.				
Additional Charge II	92	Specification:	Not Guilty	W/D			092-C2
		Offense description	Willful dereliction of duty				
		Withdrawn and Dismissed	The withdrawn charge and specification will be dismissed without prejudice to ripen into prejudice.				



MILITARY JUDGE ALONE SEGMENTED SENTENCE					
SECTION J - SENTENCING					
CHARGE	SPECIFICATION	CONFINEMENT	CONCURRENT WITH	CONSECUTIVE WITH	FINE
Charge I	Specification 1:	30 days	N/A	N/A	none
	Specification 2:	none			
Charge II	Specification:	none			
Additional Charge I	Specification:	none			
Additional Charge II	Specification:	none			

# CONVENING AUTHORITY'S ACTIONS

# POST-TRIAL ACTION

## SECTION A - STAFF JUDGE ADVOCATE REVIEW

1. NAME OF ACCUSED (LAST, FIRST, MI) Bueno, Adrian E.		2. PAYGRADE/RANK E6	3. DoD ID NUMBER [REDACTED]
4. UNIT OR ORGANIZATION HqHqRon, MCAS Miramar		5. CURRENT ENLISTMENT 3-Dec-2018	6. TERM 4 Yrs 3 mos
7. CONVENING AUTHORITY (UNIT/ORGANIZATION) HqHqRon, MCAS Miramar	8. COURT-MARTIAL TYPE Special (referred judge a	9. COMPOSITION Judge Alone - MJA16	10. DATE SENTENCE ADJUDGED 19-Sep-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 checked="" type="radio"/> Yes	<input 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.

- SJA consulted with the Convening Authority and explained his clemency authority under Art. 60, UCMJ.

- On 27 September 2022, Detailed Defense Counsel submitted letter 5000-82 DSO/bjr of 27 September 2022, requesting the suspension of the adjudged forfeitures for six months and the suspension of the adjudged reduction in grade to E-3. Alternatively, the defense counsel requests that the adjudged reduction in grade be reduced to E-5.

24. Convening Authority Name/Title Colonel [REDACTED] Commanding Officer	25. SJA Name Major [REDACTED]
26. SJA signature [REDACTED]	27. Date Oct 3, 2022

**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.]

**DENIAL OF CLEMENCY REQUEST**

- I have considered all matters submitted by the accused. The accused's request for the the adjudged forfeitures to be suspended for a period of six months is denied. The accused's request for the reduction to E-3 to be suspended is denied. The accused's request for the reduction in rank to be reduced to E-5 is denied. The sentence is approved as adjudged.

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

Oct 5, 2022

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

Oct 5, 2022

CONTINUATION SHEET - CA'S ACTION AND ENTRY OF JUDGMENT

28. CA's Action - Continued

N/A



UNITED STATES MARINE CORPS  
LEGAL SERVICES SUPPORT SECTION  
MARINE CORPS INSTALLATIONS WEST  
BOX 555031  
CAMP PENDLETON CALIFORNIA 92055-5031

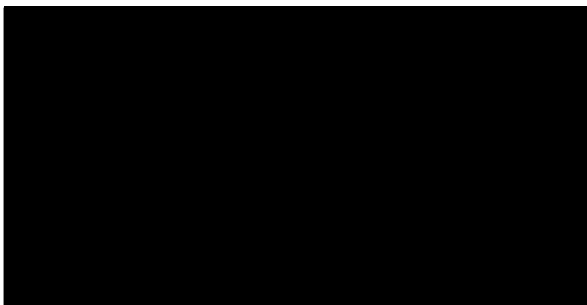
\*\*\*\*\*  
UNITED STATES )  
 )  
 V. ) SPECIAL COURT-MARTIAL  
 )  
 Adrian E. Bueno ) JUDGE ADVOCATE REVIEW  
 [REDACTED] )  
 Staff Sergeant )  
 U.S. Marine Corps )  
 )  
 Dates of trial: 31 May, 1 Aug, 19 Sep 2022 ) Date: 13 December 2022  
\*\*\*\*\*

1. Pursuant to Article 65(d)(2), Uniform Code of Military Justice and Rule for Courts-Martial 1201, Manual for Courts-Martial (2019 Ed.), I have reviewed this case and concluded that:

- a. The court-martial had jurisdiction over the accused;
- b. The specifications, in which a finding of guilty was not disapproved, stated an offense; and,
- c. The sentence as adjudged and approved was within the limits prescribed as a matter of law.

2. The accused submitted no matters that require response pursuant to Rule for Courts-Martial 1201(d)(4).

[REDACTED]  
Captain  
U.S. Marine Corps  
Regional Review Officer



# ENTRY OF JUDGMENT

# ENTRY OF JUDGMENT

## SECTION A - ADMINISTRATIVE

<b>1. NAME OF ACCUSED (LAST, FIRST, MI)</b> Bueno, Adrian E.		<b>2. PAYGRADE/RANK</b> E6	<b>3. DoD ID NUMBER</b> <div style="background-color: black; height: 20px; width: 100%;"></div>
<b>4. UNIT OR ORGANIZATION</b> HqHqRon, MCAS Miramar		<b>5. CURRENT ENLISTMENT</b> 3-Dec-2018	<b>6. TERM</b> 4 Yrs 3 mos
<b>7. CONVENING AUTHORITY (UNIT/ORGANIZATION)</b> HqHqRon, MCAS Miramar	<b>8. COURT-MARTIAL TYPE</b> Special (referred judge a	<b>9. COMPOSITION</b> Judge Alone - MJA16	<b>10. DATE COURT-MARTIAL ADJOURNED</b> 19-Sep-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 the UCMJ, Article 121

Plea: Guilty Finding: Guilty

Spec 1: Larceny of military property of a value of more than \$1000 or military firearm or explosive or vehicle

Plea: Guilty Finding: Guilty

Spec 2: Larceny of military property of a value of more than \$1000 or military firearm or explosive or vehicle

Plea: Not Guilty Finding: W/D\*

Charge II: Violation of the UCMJ, Article 107

Plea: Not Guilty Finding: W/D\*

Spec: False official statement

Plea: Not Guilty Finding: W/D\*

Additional Charge I: Violation of the UCMJ, Article 107

Plea: Not Guilty Finding: W/D\*

Spec: False official statement

Plea: Not Guilty Finding: W/D\*

Additional Charge II: Violation of the UCMJ, Article 92

Plea: Not Guilty Finding: W/D\*

Spec: Willful dereliction of duty

Plea: Not Guilty Finding: W/D\*

\*After announcement of the sentence by the Military Judge, the withdrawn charges and specifications will be dismissed by the Convening Authority without prejudice, to ripen into prejudice upon completion of appellate review where the findings and sentence have been upheld.



**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.

The Military Judge (segmented sentencing) adjudged the following sentence:

- Reduction in rank to E-3, forfeiture of \$1600.00 per month for 6 months, and 30 days of confinement to run as follows:

Charge I: Violation of the UCMJ, Article 121

Spec 1: 30 days of confinement

Total confinement time will be 30 days.

Plea Agreement:

- A punitive discharge is not authorized.

- 30 days confinement will be adjudged for Specification 1 of Charge I. Total confinement time will be 30 days.

- Forfeitures may be adjudged. Automatic forfeitures will not be deferred or waived.

- No fine shall be adjudged.

- Reduction in grade shall be to E-3.

- No other lawful punishments may be adjudged.

Convening Authority:

The Convening Authority considered all matters submitted by the accused. The accused's request for the the adjudged forfeitures to be suspended for a period of six months was denied. The accused's request for the reduction to E-3 to be suspended was denied. The accused's request for the reduction in rank to be reduced to E-5 was denied. The sentence is approved as adjudged.

Pretrial confinement credit: 0 days

**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

<p>15. Judge's signature:</p> <p>GOODE.ANDREA.CHA MPAGNE.</p> <p>Digitally signed by GOODE.ANDREA.CHAMPAGNE Date: 2022.12.08 12:54:29 -08'00'</p>	<p>16. Date judgment entered:</p> <p>Dec 8, 2022</p>
<p>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.</p>	
<p>18. Judge's signature:</p>	<p>19. Date judgment entered:</p>

# APPELLATE INFORMATION

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

**REMAND**

**THERE WERE NO REMANDS**

# **NOTICE OF COMPLETION OF APPELLATE REVIEW (NOCAR)**