

A: Yes ma'am I knew what was going in it but then every that's the thing I wanted to explain is that every sentence that I said is what came out of my mouth but the side bar conversation is not all in there.

Q: But at the end they ask you had the opportunity to change or add, or delete from the statement right. They ask you I mean, what was going in it, right?

A: No one forced me but because I had immunity they said I had to and that's why I was there for numerous hours

Q: Okay, now did anyone force you to make the statement to the investigators?

A: I think that it was not marijuana but he said that it was marijuana.

Q: so you think that it was not marijuana?

A: Okay, I would recognize marijuana if I saw it ma'am but in a, at a party were there is a bunch of smoke, smoking going on if one person is smoking marijuana around a bunch of Black and Mild's it would be kind of hard to distinguish and that's why I didn't, I said obviously if I don't smoke marijuana I think it would have an effect on me ma'am but I couldn't tell a difference it felt like a regular cigarette.

Q: Is it your testimony here today that you don't know what marijuana looks or smells like could you recognize it if saw it?

A: No ma'am on during, on that explanation I know that its going to sound like I'm just going to weasel out but this is what exactly what happened in the interrogation room ma'am they asked me if I smoked marijuana with Fox, Private Fox and I stated no because I've never asked to smoke marijuana with him of course they took me out of the interrogation room well first they said do you recall an instance were you smoked at a barbeque with Fox witch was a Black and Mild and I said yes and they were like it was marijuana no it was not marijuana they took me out of the interrogation room and he said that on that one occasion that he had been interrogated to and he smoked it with me and he passed to me he did not state that they Scott this marijuana he passed it to me and I puffed puts were taken I did not consciously know that it was marijuana I just confessed to say it is marijuana ma'am then obvious okay then if he says it's marijuana then it's marijuana because obviously he put it in there but I didn't just say that Oh yeah let me smoke that weed or anything like that or did I contently know that it was marijuana.

Q: Do you remember that at this time and now you don't remember doing that or is there another explanation?

A: No.

Q: don't remember doing that so? years ago I didn't feel anything from smoking weed. You also said you

Q: Alright well, I believe that the members might have some questions for you. I'm gonna to look, review this some more and I may have some more questions for you, but for now I'm going to give the member an

A: Actually ma'am because it was so long ago that it was such a short period of time. That I knew that they were going to that they were going to end up getting in trouble but I had already disassociated myself like as soon as reality set into me which was in a weeks time I immediately separated myself from them and not only I mean I didn't just leave the situation I just like close the door behind me I actually tried to get them help because I've known them since I've known them for all a long time I've actually tried to get them each and every one of them help in this case but I have disassociated myself from that.

Q: what, what did you think what was going to happen?

A: Yes ma'am it did occur to me.

Q: It didn't occur to you that you could get in trouble for being around that?

A: Yes ma'am.

Q: allow? and knew that they were doing some things that the Marine Corps doesn't people. At the time that you were hanging out with the crowd of people. Alright so you're sorry that you hung out with the wrong crowd of

A: I'm sorry for letting the Marine Corps down. I'm sorry for that I was around people that were involved with drugs I'm sorry that I did not make a better judgment at that time. I was younger, I am very, very apologetic for that and in that case that I said that I smoked marijuana at the barbeque and that was clearly in my statement even though how that statement got to be on that paper because I was shown in interrogation tapes I'm sorry for not using better judgment but hey maybe I shouldn't smoke this cigarette or this Black and Mild that private Fox is giving me I'm just very just, just very sorry.

Q: what are you sorry for?

A: As far as?

Q: Now at some point, no never mind. Alright well you said that your apologetic for what you did and you made a mistake, can you explain what you mean when you say that?

A: Yes I did sign that ma'am

Q: I understand now, but it says here I've been given an opportunity to make corrections and I'll place my initials in the beginning and ending of each of the paragraphs. This statement is true to the best of my knowledge so you signed that?

A: To get to those conclusions?

Q: Right, right.

Q: If somebody gave me a pill I'm just gonna take a party; I'm have trouble believing that, that you would just take a pill.

A: Oh well yeah, sir. When I said when I was curious about ecstasy I was curious about doing the drugs. But when I said when I said that I took a pill from Miranda at that instance no I did not consciously; I did not know for sure that was an ecstasy pill and I didn't think that it was an ecstasy pill, but I took a pill from her.

Q: Did, when the first time that you said you explained to the lieutenant that Miranda gave you a pill and you took a pill, did you think that you were taking ecstasy at that time? Did you think that she was giving you? You said you didn't think that it was ecstasy because you didn't have the effect, but when she gave you that pill were you under the assumption that she was giving you ecstasy?

A: That's where the cases sir, where the investigator I was trying to explain. These purchases of course, are not stupid their money, their a container I don't know what was in the container but they had already confessed in their interrogation. The drugs were in the container so on the statement it was something I'm hopping in the car knowing that, "Oh yeah I'm going to go purchase ecstasy." When that didn't come out that was in the containers until or that drug distribution was going down. Play until this investigation someone went down and Mrs. Daily she said "Hey do you know how many time you went there?" I would say "No ma'am I do not know." Then she said "So it would be approximately 10 times?" and of course why would she say approximately 10 times if that's what private Fox said in his statement, in his interrogation that I personally viewed while he was getting interrogated.

Q: Oh. Did you know that you were going to buy ecstasy?

A: Last name sir,

Q: Sergeant Scott you said that we're here because of that statement you did (Unrecognizable word). You got a chance to review this statement and that's basically what we're looking at is there anything that you want to some, some things sick out in my mind when I'm reading this I went with Miranda to go buy some ecstasy ten or, or maybe more times I understand, I'm, I'm reading this and it takes me 10 minutes to read through this statement and it takes 8 hours to go through to get this statement so you know this statement so obviously this isn't all 8 hours of the testimony so I'm just picking out bullets of here and maybe you can expand a pond about how you know what you were you know when you went with Miranda is that first name or last name.

Questions by the members:

A: Yes ma'am?

Q: But for now I'm let the members have an opportunity.

A: Yes ma'am.

opportunity?

Q: Confused with that part there.

A: Okay

Q: Oh okay, oh okay sir, on that incidence it was just a regular party I didn't ask for ecstasy but she did say here take this pill I took a pill it was I was drinking, so I must of assumed that it was ecstasy.

Q: Did, was that the first time at a party like that.

A: Yes, sir.

Q: And just look at some of these other, statements of these Marines and, I weigh these other statements not a great deal. I know that they get interrogated. They say other things or try and pass the buck off to other Marines but in this one statement by Morales, Seaman Morales, he says that you told him quote, " Do you think that I'm stupid, that I would keep this stuff in my car and I'm not going against my girl." meaning Hernandez-Miranda, is that a true statement that you actually told him or is that?

A: No sir that is not a true statement I have not spoken to Mr. Morales since I've actually left there. That I that was something in there.

Q: And a lot of these Marines I assume that these were formal acquaintances of yours Hernandez, Morales, or Hernandez-Miranda, Morales-Glorido do you have any contact with these Marines today?

A: No sir I don't and as far as I just don't want you to think that I'm living with Miranda because I'm not and I do not have any contact with them at all. Except if that I see them at work on Camp Pendleton and it's hi/bye.

Q: When the supposed quote smoke weed with Fox you state you had been smoking Black and Milds is that are you familiar with that is that a cigar.

Q: A Black and Mild is that what you called it a Black and Mild?

A: A Black and Mild sir, is like somewhat of a cigar.

Q: Cigarette or cigar

A: A cigarette cigar

A: And that part of one of the things that is not on the paper were it says that like you went to get a container do you assumed that it was drugs yes so what did you say when you went to go buy ecstasy one from Fox yes because he gave me a ecstasy container it's kinda like one of those it's not just all black and white what on that paper right

Q: Cause in this you know in this interrogation you said that sometimes I went to Fox's to get ecstasy?

A: Yes I was just in their vehicle.

Q: You were just in their vehicle?

A: Oh no sir, it was just like, hey Scott you want to come ride with us we're gonna go meet Fox or who ever the individual is and then they would give him an envelop or they would give him a container.

Q: Now were you plotting these, were you making these purchases for somebody else or for yourself?

A: Like you said with that one statement with Miranda as far as taking the pill like I took the pill I swallowed it and I didn't have any effects course just knowing who they are I would assume that it was ecstasy of course actually I'm not going to lie to sir, of course that I didn't want it I didn't after I thought about what happened of course I didn't want to get caught of course not because drugs didn't want it was always in a container and I didn't want I, I can't say using better judgment as far know the people it's safe to assume that it was drugs but no one ever said here Scott go purchase these this weed or ecstasy for me and I go just and hop up and volunteer to do it course not I wouldn't even want to get pulled over by PMO or with something knowing drugs in my possession sir

Q: I said I have probably one more question for you, it's to deal with some of these Marines are, are quoted in here saying that you, you in quote rolling with ecstasy so meaning that I assume that you that you've taken it few times buying it I hope that you didn't caught on a, a drug test. Did you take ecstasy or knowingly buy something it thinking that it was ecstasy and take it hoping that you wouldn't get caught.

A: Yes sir, I mean I do not smoke cigarettes or anything like that? Only like socially maybe once, a couple, few times but I was drinking at the party and private Fox I sat at the table with a group of people and he passed me a Black and Mild. I just smoked it sir and passed right back and I'm led to believe that I didn't even think that it was marijuana because it didn't have any effects. It didn't have any effects on me at all where to make me think that it wasn't a regular cigarette or a regular Black and Mild sir.

Q: Okay, so that night you had been I assume that you drunk some alcohol and then smoking the cigarette Black and Milds and supposedly that what Fox possibly sworn that's what he said that it was a marijuana cigarette. But you don't necessarily you said that you couldn't tell if it was a marijuana cigarette?

A: Yes sir and like in-between and that's where I wish they would of put is that different conversation that happened

Q: Okay, alright so here is another question that I have for you Sergeant, its in your sworn statement you wrote in here and keep in mind that I understand you context is important you understand this, but it says here that you were curious about ecstasy when was that in the same course of conversation or was that statement taken out of context in, in a different part of the conversation

A: Yes I did sir.

Q: And, and did you drop that container back off to someone else?

A: There was this one instance where I, I did have money to give to Fox and I got a container in return for the money.

Q: Okay now at that point had any one said hey go see Private Fox and hand him this money and then bring this container back or anything like that?

A: Sir, I would go over there and then basically to the barracks and then Private Fox would come up to me and be like oh well hey get this to Morales or something like that and it would be in a container and it was never like I would be over in the area sir and then people would say here give this to Morales or give this to Man and then I would just go over to were they are and just give it to them in a container.

Q: Can you give me the context on how you went over there by your self?

A: I think that there was maybe once or twice that I did go see him by myself to be quite honest.

Q: Okay so well even if you were driving a car were you in a car full of people or were you just by yourself and you went over to see Private Fox?

A: Yes, but like when you mean like myself driving a car over there by myself their was yeah their was probably once or twice that.

Q: Okay so and you weren't alone, you weren't along for the ride on those so you actually drove to go meet up?

A: To go pick up the container, there was like maybe once or twice or were I did get a container from, from Private Fox.

Q: Since there was a, I probably need a little clarification on that container since we were on that. So did you ever drive yourself by yourself to pick up a container?

A: Thank you sir.

Q: That's all the questions I have at this time.

there sir

A: No sir, and like I said in one of the statements in there is that I'm not trying to be funny obviously but I know I don't do drugs because each one of these cases that each Marine brought up to, I never felt any of the side effects like for me to consciously to know like oh crap like or if I didn't take a pill I didn't feel any like people would describe that oh I get so happy or like what ever like I didn't feel any of that anything that made me want to keep doing it

Q: Okay so I guess my next question is after you took that pill some time after that between the time you took it in the next 8 hours where you, where you, where you physically over heated thirstily grinding your teeth any of those symptoms?

A: It was like I just took the pill?

Q: So it was kind of impulsive?

A: I don't know sir, it was actually a party and we were all drinking and I was drinking and it's kinda like the music is playing and you're just laughing and joking around and having fun you drink, and its like this hey take this, okay, actually I'm at a party drinking I'm like oh what is this I took the pill.

Q: Is that a correct assumption, okay so did she hand you a pill, did she like say hey take this and like, opened mind and put it in there or how did you end up taking that pill was there a conversation that went on before that?

A: Yes sir.

Q: Alright so within the context to the party I assume that you were drinking?

A: Prior to this incident no sir I have never, I was never introduced to ecstasy.

Q: Prior to this incident had you ever seen what an ecstasy tablet looks like?

A: Just off the top of my head I know that it could be a pill. It could be I could explain, it like,

Q: Again I completely understand that. Okay so now it says in the next sentences and I understand that this may be during the exact same conversation but the next sentence says that Miranda gave you a pill and I took it and swallowed it. Can you give me a context in which I understand yeah there's a party going on, well first off here's my first question can you tell me what ecstasy looks like?

A: Yes sir.

Q: Okay, again?

in-between these sentences it's kind of like they somewhat pick and choose and they're like and that's why I wish you could watch the, the tape where I be like it is I did initial by these things because I did say these sentences but.

Q: So did, did you have dry mouth?  
A: Oh no, no sir I don't, I didn't have any I was just, I just felt normal sir.

Q: Okay so you, you didn't feel like, like you couldn't help but grind your teeth?  
A: No sir, I mean I was drinking but I mean I just felt.

Q: Did you feel like you needed to drink a lot of water?  
A: No sir, I don't think there was even water at these parties sir.

Q: Okay, and you didn't feel the lovey feeling or anything like that after you took it?  
A: I don't know sir, and that is something that I wrote and then said in the statement that I didn't have any of these effects of drugs?

Q: The ' there is another statement in here that I need to understand the context of because the quote here is you know I went with Miranda to go buy ecstasy ten or, ten or maybe more times again you know can you, can you know frame that for me can you frame that statement for me?  
A: Yes sir, that was during the time when we all, me and private Fox where interrogation room at 8:00 at night and they were saying how many time were did you go to get this container with Miranda and I'm like okay I don't know off the top off of my head and I was taken out of the interrogation room sir, into another interrogation room to view private Fox's tape I, I think that it was already a, a pre taped thing because it was at exactly at the moment when he said that I went there ten times and then when we came back into the interrogation room there like okay well if private Fox a confessed drug dealer, a confessed drug user, is saying that he saw you with private Miranda 10 times that he gave you wouldn't you assume that, that's 10 times and what can you say if, if he said that then it must be true because he's confessing to all this and I would say yes approximately 10 times that's how both of those stories match sir.

Q: Okay, all right I think we kind of covered the, the statement here where they put you to say I did smoke weed with Fox on one occasion at a barbeque in Fall Brook at approximately 1/2 years to 2 years ago okay so this is with a this is the Black and Mild right?  
A: Yes sir.

Q: So in the context to this is, is it far to say that they took you out of the room they said they private Fox has said that he was smoking marijuana at this barbeque and you were smoking it with him did that, you know did that Black and Mild was, was had marijuana (Unrecognizable word) you smoking it?  
A: Yes sir.

Q: And then they said that if he was smoking it then you were smoking it is that, is that the context in this?

A: Yes sir, the only difference is they didn't tell me that they showed me on the interrogation tape where he said it he had smoked that Black and Mild and gave it to me.

Q: Okay so there's a tape were they brought you in and they said hey this is what he said so if he said, if he said that he was smoking it you were smoking that Black and Mild with him then you must have been smoking it with him?

A: Yes sir.

Q: How many times have you've been tested over the course of, of the course of your career, drug tested, urinalysis?

A: I couldn't give a,

Q: Big round number just a good, good guess, a dozen times Two dozen times.

A: More than that sir because especially at this command that I'm at now because we're so small and recently with all the mobilized Marines that are coming in that they are drug testing people and I'm like honestly taking a drug test almost every two months and I don't know if it's because of this situation but I've been taking way more drug test.

Q: Okay,

A: Sir.

Q: And you never popped positive on a urinalysis?

A: No sir, I have never.

Q: And you didn't pop positive on a urinalysis after the alleged incidents?

A: No sir.

Q: Were you, did you get a urinalysis around the time that you?

A: Yes sir, yes sir.

Q: Within the 30 days?

A: Yes sir, and even when, not to go off on someone else's case but they were saying Miranda was taking people's names off the urinalysis. I would think that if she knew that "Sergeant Scott took that," then oh well Lance Corporal Scott at that time took that pill if she could remove names then you would think that my name be removed but I've taken many urinalysis and I have never popped and I've never done anything to try to flush my system out or anything I just go in there I'm actually the first one to take my urinalysis and that's it and I mean every one of these people popped on a urinalysis every one and

As I said in the beginning and I think it has been proven true gentlemen. This is not your average wrongful drug use Administrative Separation Proceeding. We have different forms of evidence than we often do have. We do not have a urinalysis. The government doesn't think that that poses a problem for finding that Sergeant Scott wrongfully used drugs by preponderance of the evidence. Given that she admitted to doing so, and her admission was corroborative by numerous other Marines, regardless of what she now said. I do not, well, the government's position that you can't use urinalysis to prove a negative unless you test every day. Ecstasy stays in the system for less than 72 hours. If you use it on a Friday, how are we going to test you? Monday morning rolls around and it is too late. Certainly some Marines slip up and they do get caught. Perhaps they use it on Saturday. I'm not sure what the factors are but I do know that it's a very short turn around period. Also, that there are allegations in this case of tampering with urinalysis. So it's not clear to me that those results or the lack thereof, are reliable. So what am saying is that we can't look at the absence of a urinalysis and say obviously it's clear that she didn't use drugs. Of course it would be convenient if there was a urinalysis showing that she did use drugs, but that is not necessary. It is not a requirement in this type of case. All that is required is that you believe that it's more likely than not, that she did use

The Recorder presented an opening final argument:

Counsel for the Respondent: Nothing from the Respondent, sir.

Recorder: As I said, nothing for me sir.

We are now ready for final arguments, unless the recorder or counsel have anything further to offer?

The board came to order at 1640 hours, on 28 January 2010.

The board recessed at 1636 hours, on 28 December 2009.

The Recorder asked for 2 to 3 minutes to go off record.

A: Thank you sir.

Q: Believe it or not I don't have any questions for you

A: Thank you sir.

Q: That's all the questions I have for you.

A: Oh no sir, all of them were Corporals even Private Fox was a Corporal all these Marines were Corporals actually I was a Junior to all of them because they all been in the Marine Corps way longer than me and as far as Morales I'm not exactly sure his rank so I can't exactly sue for him because I didn't know what rank he was because he was in the Navy but I would have never out ranked any of these people sir.

Q: I just have one other question for you. At the time of this, these incidents go on, or been going on were all the Marines involved in this were they contemporaries, were they your peers, you didn't have rank over any of them?

I've, not dodged any I've taken them all.

drugs, knowingly and wrongfully. If you compare from sitting at that table two ferbans go something like this. Either she did use ecstasy for a period of time, brief or not. At least five times, as stated in her statement, written under testimonial immunity. Or what is the alternative? The investigators trapped her in a room and broke her down, and then wrote her statement for her. She reviewed every paragraph with them. It just doesn't add up to me. The way this process works is Sergeant Scott had the opportunity to go through paragraph by paragraph and make any corrections that she wanted to make. If it said I was curious about ecstasy. Miranda handed me a pill. And what she really meant was, at one point three days ago I said I was curious why anyone would do ecstasy ever. And then at a party later I was given an unidentified pill when I was really drunk. Well why didn't she say that. It's not like the investigators are sitting there and saying, oh is that what really happened, oh well we are just going to write these things and why don't we sign it as well. If that makes sense? So it's just difficult for me to understand what the alternative version is to giving credibility to the statement. The statement was made under immunity. Of course the separation still was a possibility but if that's the case then it's not clear to me. So there's this other alternative world where the other Marines who are making statements are just making things up and accusing other people to help themselves. If that's the case I don't understand why Sergeant Scott wouldn't say well there mine that is not true. I didn't do that, I didn't know it was drugs, I don't do that, I was really drunk, etc, etc. So from the government view there is no reasonable alternative to the drug having been knowingly and wrongfully used. In which case there is certainly an illegal basis for separation. Let alone the purchase of drugs which again is hard to believe that the money exchanged for container with no idea of what was inside. Especially when one of the purchasers, was living with Sergeant Scott, for a numerous amount. And they weren't acquaintances, they had a close friendship. I think that is reflected in the statement, that they knew each other well. And certainly having rosin perfected was they knew each other well enough that it didn't make sense. It didn't add up for Sergeant Scott to be saying I don't know what Corporal Miranda was doing. I don't know if she did drugs. After intervening her twice I came to the conclusion that she simply wasn't being honest. I believe that you gentlemen can reach your own conclusions in that department based on the questions you were asking and the responses you were getting. It doesn't add up, it doesn't make sense. Thus, having concluded that there is a basis for separation. The government will move on to make an argument on whether separation should occur. Because of court it would have been possible, it's possible for a Marine to come in and say I have made a mistake, I've moved on, and now I can contribute meaningfully to the Marine Corps and I shouldn't be separated. Now, there are multiple reasons to separate Marines. One reason that would be often is a Marine is just not hauling there own weight. A Marine who's clearly not a big shot. Showing up late to work, showing up drunk to work. Clearly there are problems outside work situation of Marines who are great at work. People have nothing but good things to say about them. About there performance at work. But in the Marine Corps, as you know gentlemen that's not all it's about. It's almost work when an outstanding Marine builds and upholds the standards of the Marine Corps then when that average so so Marine gets caught. When you have a stellar shining example of a Marine, who then commits a DUI, or commits sexual harassment, or gets caught using drugs. That brings everyone down that much farther. Certainly the Marine Corps does not have tolerance for people who use drugs regardless of whether it impacts their work performance or not. If Marines fail to meet the requirements then there's, we don't usually, there is certainly there are cases where second chances are deserved,

First of all members, with regard to the basis, I'm not going to spend much time on that. You have heard the evidence. It's up to you to decide whether or not the government has proven in this conduct that she is alleged to have participated in. We have various statements from a bunch of Marines pointing fingers at each other. Let me tell you a couple of these Marines are currently in the brig. Some of them are and wander in the service. Obviously pointing fingers at each other during the course of this investigation. We have a statement from Sergeant Scott herself. She told you about the facts and circumstances surrounding the making of that statement. In fact she was interrogated for eight to ten hours under a grant of testimonial immunity but which in fact ordered her to cooperate order her to talk to the investigators. So that was the mindset that she was in. She was in this room for eight to ten hours under a threat in writing, if you do not cooperate, if you do not talk to investigators you will be charged under the UCMJ. So members, like I said I'm not going to belabor the point. You have heard the evidence; you can come to a conclusion of what happened on your own. Now, I want to make another point. I don't want this point to be lost because I think it's significant. Sergeant Scott is here. She has never been N/P'd, she has never been court martial. She could have been court martial; the government could very well have sent Sergeant Scott to court martial and very well put her up for N/P for this alleged misconduct. They choose not to go that route.

Counsel for the respondent presented a closing final argument:

after the defense. Government does reserve the right to offer a rebuttal closing argument honorable. Naturally a suspension wouldn't apply in that case. The certainly this kind of behavior using drugs and lying about it is not separate and that you vote to do so with an other than honorable. Indicates that wrongful drug use did occur. But that you also vote to you find a basis because there is a preponderance of the evidence that for all Marines. Given that, the government would ask that not only if weather or not that Marine is proficient. We have the same standards is serious based on weather or not that Marine is intelligent or shouldn't be a double standard for Marines who commit misconduct that be an effective leader down the line. To wrap up that thought, their can be made that it can't be recovered from in terms of being able to impacted work performance it merits separation. Certainly the argument happened here. This time it was so serious that regardless weather it be a Marine. That would be the government's argument that that's what meet our standards it doesn't matter how well you perform but you can't at some point the Marine Corps draws the line and says if you don't well you're over weight but you do a great job in the Admin Shop. No Marine Corps. Unfortunately, maybe but that's the way it is. It's not say well we don't weight that often against what they can do for the compositions standards or if a Marine has a medical problem we don't requires a Marine. If a Marine feels the need to fall body failing to uphold the standards of conduct that the Marine Corps less significant than it happened yesterday. This is an example of That's not something where it could have happened two years ago that's indicates the Marine does not take personal responsibility for it. time slip up. When it is done repeatedly and especially when it using drugs is one of those things where especially when it's not a one that we all live by every day. It's the government's perspective that be great to keep that Marine but that would undermine the standards not the Marine still has something to contribute. Sometimes, yes it would standards in the Marine Corps. It's not about determining weather or certainly there are. There are also cases where we need to uphold the

I don't want you to misunderstand the fact that she was given a grant of testimonial immunity. All that means is any testimony that she provides can't be used against her. That doesn't mean that the government can't charge her against her. Meaning that if they have other evidence that she engaged in this misconduct, they can charge her, they can Court martial her, they can NJP her for the offenses based upon that point. So Sergeant Scott stand here, never been Court martial, never been NJP'd, never had the opportunity to establish her innocence at Court martial. With regards to the next question, if you find that there is a basis whether or not she should be separated or retained. Well, it is not a question of should Sergeant Scott be punished for a this misconduct. A Court martial or NJP that is the form to punish a Marine for engaging in misconduct. An Administrative Separation board, the purpose is to determine if this Marine is fit for further service in the Marine Corps. If this Marine should be allowed to continue serving in the Marine Corps or be on her way. And the facts have established that, the evidence has established that it would be in the best interest of the Marine Corps for Sergeant Scott to continue serving. Now this wouldn't be a case of removing a nuisance from the unit. It's not a case of removing a bad example of a person that requires extra supervision, extra instruction. No it's the complete opposite. Sergeant Scott is a great example to other Marines. She mentors her junior Marines. She is tactful and respectful to her senior Marines. She performs and behaves excellently, other than these current allegations that we have been discussing. No other disciplinary or no other reason to discipline Sergeant Scott. She has never required extra supervision, extra counseling, anything along those lines. She goes above and beyond expectations, she shows the initiative, she is dependable. You were provided with numerous statements and they all echo each other. Their talking about the great many qualities that Sergeant Scott has. So the Marine Corps wouldn't be benefitting in any way by removing Sergeant Scott from further service. In fact it would have the direct opposite result. The Marine Corps would be losing somebody that holds the Marine Corps high esteem and wants to make a career out of it. So Sergeant Scott should be retained, she should not be separated from the Marine Corps. Give her that opportunity to continue serving. Now next question. I hope you don't come to that question because I hope you retain Sergeant Scott. But characterizations? If you come to that question, I hope you don't come completed that enlistment. Now, I want you to open up. Well, first of all re-enlisting. Now her first enlistment is over and done with. She that we heard indicating that this misconduct it occurred prior to her alleged misconduct occurred during Sergeant Scott's first enlistment. Now Sergeant Scott re-enlisted in 16 November 2007. Now the evidence testified indicated it had occurred in mid 2007 and I hope that when you are deliberating you will read back through the statements so you can get a better gage of when this alleged misconduct occurred. HN Morales is talking about September to October 2007 time frame. Even May to October 2007 time frame. Private Mann indicates that July 2007 time frame Private Fox when we heard Captain Rosen testify he said that he sold ecstasy to Sergeant Scott over a year ago. That statement was made to Captain Rosen in October 2008. Over a year ago that would have been October 2007 or prior. So once again, prior to her re-enlistment 17 November 2008, excuse me 2007. So we are talking about conduct that

occurred in her first enlistment and that first enlistment is over and done with. Now with that being said, I provided you with excerpts from the MARCORSEPMAN in my exhibits. I ask you to open it up and we could read them off, read it together. But I actually on the third page on the bottom page number one tack eleven. Talking about.

Member: which tag?

Counsel for the respondent closing final argument continued:

Tag Juliet. I will give you a moment to find it. Once again on page one tack eleven bottom right hand corner. This paragraph is entitled limitations on characterization. Characterization of the current enlistment or period of service is determined by conduct, actions, or performance during that enlistment or service plus any extensions prescribed by law or regulations or effective with consent. Remember, Thus positive or negative conduct, acts, or performance during a period of prior military service including Court Martial, NJP, absence without leave, misconduct to which an enlistment waiver was granted or commission of other offenses for which punishment was not imposed or judged cannot be considered in determining the characterization reprimanded for the current enlistment. So members it states right there that you got to characterize an enlistment based upon a members conduct and performance in that enlistment. Once again her first enlistment during which this alleged misconduct occurred that's over and done. She has already been discharged from that first enlistment with the appropriate characterization for this enlistment. So you got to base that decision based upon her conduct and performance in this enlistment. Moving on to a, if you turn the page to sub paragraph at skipping to the second sentence. That processing is based solely upon evidence that may not be considered in determining characterization of service. The separation authority may recommend retention or approve an honorable or general characterization of service as warranted by the respondent's service record. It's talking and echoing what we talked about in that other paragraph. So that's what we have here, we have evidence of this misconduct that can not be used on the question of characterization. It can't be used because it was in a prior enlistment. So what were left with is if Sergeant Scott is going to be separated what does her conduct and performance in this conduct and performance in this enlistment rate? And what evidence have we heard from two witnesses and we have read character statements from numerous Marines that work with Sergeant Scott. They all say the same thing: outstanding Marine, works hard, she is extremely proficient, she is extremely intelligent, she goes above and beyond expectations, she shows initiative, she is dependable, she is diligent, she mentors other Marines. So members it's clear that if her if this enlistment is going to push forth, she has displayed nothing but excellent performance and behavior during this enlistment. So this enlistment as proven by her conduct and performance would rate an honorable discharge. If you read turn to the very first page under Juliet, they are talking about that it gives you guidance when various types of characterization may or may not be appropriate. Under, towards the middle of the page. Honorable upon involuntary separation. If a Marine is being separated as a result of adverse conduct, unsatisfactory performance, or is requesting separation in lieu of Court Martial an honorable characterization is appropriate only if the Marine's service is otherwise so meritorious that any other characterization would clearly be inappropriate. Now members we have heard zero evidence of any kind of misconduct on her part during this enlistment. We have heard only positive and glowing things about her

I do have a rebuttal. Well members, gentlemen. Certainly it is clear that if you take every, all the evidence in this case from Sergeant Scott's perspective, she should be retained and given an honorable discharge at the end of her service. But we all knew that coming in door as well. What I'm going to push back on the suggestion that we have gotten from Sergeant Scott and the Counsel that about the time Private Fox, Government Exhibit eight, page two of five. November 2007

The Recorder presented a closing final argument:

during this current enlistment. And that case right there pursuing to that guidance any other characterization would clearly be inappropriate. So members, like I said this is kind of a unique situation. If you find that this misconduct has occurred, yeah you can decide that merits separation but you can't consider that on the question of characterization. You have to look at her service record, and on what her service record supports. We have heard absolutely nothing in this current enlistment of anything unsatisfactory, anything negative about Sergeant Scott in this current enlistment. So in that light members, if Sergeant Scott could only rate an honorable characterization of service if she is separated. Why not let her continue serving if she is going to get that honorable discharge anyway? Why cut it short? Why deprive the Marine Corps of the benefit of her services? Why deprive the Marine Corps of her initiative, of her professionalism, of her proficiency? Allow her that opportunity to continue giving to the Marine Corps; she wants to continue doing so. It's clear that the Marine Corps will benefit from it. There will be no detriment to the Marine Corps by allowing her to continue to serve. So accordingly members, I'm not saying recommend that she should be retained but if in the alternative if you vote to characterize her, the only thing you can consider on the question of characterization is her conduct and performance in this current enlistment. In the alternative the last question. You have the authority to recommend that it be suspended for a period of time and the MARCORSERPMAN provides guidance when separation, excuse me when suspension would be appropriate. In any case it's appropriate if a circumstance indicates a reasonable likelihood of rehabilitation. Except we are talking about a problem that has occurred over two years ago. And during that time based upon the line so I have to play with that point. Two years have past since this alleged misconduct, so it's clear that she has rehabilitated herself. We have heard of all the steps that she has taken to make herself a better person, a better Marine. MCI's, she has become a Black Belt Instructor, she is taken on line college courses, things of along those lines. So it's absolutely clear that the circumstances of this particular case indicate a reasonable likelihood of rehabilitation. So to wrap things up members retain this Marine, retain this Marine. This is a valuable, dedicated Marine. Sergeant Scott has done great things for the Marine Corps and will continue to do great things for the Marine Corps. Now if you find that this misconduct has occurred, okay that is left to your judgment but it's a totally separate question of what is the best interest of the Marine Corps. The best interest for the Marine Corps is not to separate Sergeant Scott in mind of all the great things, in mind of all her good qualities and characteristics. And once again, to address the issue of characterization. Now a, we might. I don't want. Its there black and white members. You got to characterize this current enlistment. In that light you got to think about how she is performing and behaving in this enlistment and it is clear that she has performed and behaved outstanding and excellently in this enlistment. So once again retain Sergeant Scott. Thank you.

is when I started getting ecstasy for Miranda, Scott, Morales, and Mann. My understanding is that the reenlistment occurred in November of 2007. Therefore, if this is true then all the behavior recounted by Sergeant Scott occurred during the current enlistment. And she doesn't give dates in her statement. So, I guess it's a 51% question but why no date and the date provided by Sergeant Scott versus date provided by drug dealer. Where is the one percent? So if that's what it comes down to, well that is in your judgment gentlemen. Two other responses. If it's in the best interest of the Marine Corps to retain Sergeant Scott. Certainly the command could recommend to retain Sergeant Scott as we had discussed, separation is not mandatory. The commander does not have to recommend an other than honorable separation but he did. So here we are and that's why the recorder, I am arguing a case before you. This man has recommended separation with an other than honorable discharge. And it was not in that interest to do so, then I'm not sure what it is. Final point, the counsel for the correspondent has brought up that, has addressed that Sergeant Scott's Fifth Amendment rights were violated when she was coerced to by interrogators to provide a statement by threat of an order. All that Sergeant Scott was ordered to do was to cooperate with the investigation. That doesn't mean to tell the investigators what they want to hear. That doesn't mean agree with everyone else who gave statements. That means tell the truth. All she was obligated to do was to tell the truth and she signed the statement that clearly says that she made the statement of her own free will and that it was true to the best of her knowledge. Certainly, well it's up to your judgment gentlemen whether or not you think it's more likely than not that the things she attested to in the statement are actually true. The government's position is closed and not changed.

The Senior Member: The Board is advised that findings and recommendations will be determined in closed session. Only the voting members will be present during these sessions. We shall determine whether or not the allegations set forth in the proposed separation warrant separation. Further, if separation is deemed appropriate, the voting members will recommend the appropriate characterization of the separation, and if applicable, whether or not the Respondent should be transferred to the Fleet Marine Corps Reserve/Retired list in the present pay grade or in the next inferior pay grade. However, if any determinations will be based upon majority vote. However, if any member disagrees with the vote of the majority, that member will provide, in detail, the reason(s) for his/her dissent. Each voting member is advised that his/her decision must be an individual decision based upon the information provided. The board will be closed for deliberations. Time and date will be noted for the record.

Recorder: It's 1713 on 28 December 2009.

Senior Member: The board will come to order. The time and date shall be noted for the record. This board has.

Recorder: Sir, the time is 1800 and it is 28 December 2009. All who were present when the board recessed are again present.

Senior Member: Preponderance of the evidence. By a vote of two to one the Board determined that preponderance of the evidence does not prove any of the acts or omissions alleged in the notification. B. Recommendations. By a vote of two to one the board recommends retention in the Marine Corps. By a vote of two to one the board recommends the following characterization: Honorable. Prior service matters, the board

did not consider to matters. I wish to remind the respondent that you have the right, upon written request to the convening authority, to be provided with a copy of the report of the Board and the endorsements thereon. This Board is now closed. The time and date shall be noted. Recorder: 1802 still 28 December 2009.

- (2) \_\_\_\_\_ SEPARATION from the Marine Corps.
- (1)  RETENTION in the Marine Corps.

b. RECOMMENDATIONS. By a vote of 2 to 1 the Board recommends:

(b) \_\_\_\_\_ PROVES ALL acts or omissions alleged in the notification.

(a)  DOES NOT prove any of the acts or omissions alleged in the notification. (Senior member must check B1 below).

(1) By a vote of 2 to 1 the board determined that the preponderance of the evidence--

a. FINDINGS: PREPONDERANCE OF THE EVIDENCE.

follows:

3. The senior member initiated the following findings and recommendations, all reached in closed sessions of the board and announced the findings and recommendations at the hearing as follows:

2. The facts and circumstances and supporting documents which are the basis for the board's findings and recommendations are in the record (enclosure (1)).

1. As directed, an administrative discharge board convened in this case to hear allegations against the respondent and to make findings and recommendations.

Encl: (1) Record of board hearing  
(2) Minority report (if any)

Ref: (a) MCO P1900.16F (MARCORSEPMAN)

Subj: ADMINISTRATIVE DISCHARGE BOARD REPORT: FINDINGS AND RECOMMENDATIONS IN THE CASE OF SERGEANT SCOTT DEBORA XXX XX 6534/3043 USMC

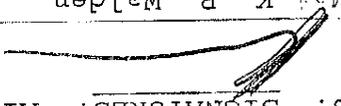
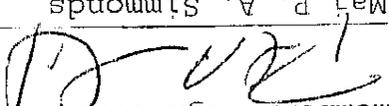
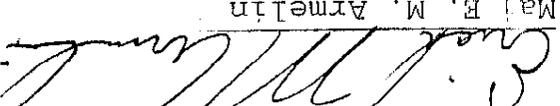
From: Senior Member  
To: Convening Authority

1910  
SenMbr  
IN REPLY REFER TO

UNITED STATES MARINE CORPS  
LEGAL SERVICES SUPPORT SECTION  
1ST MARINE LOGISTICS GROUP, MARFORPAC  
BOX 55607  
CAMP PENDLETON, CALIFORNIA 92055-5607



6. SIGNATURES. ALL members sign below.

Maj. K. R. Walden Senior Member  
 Maj. P. A. Stimmonds Member  
 Maj. R. M. Armelín Member

5. MINORITY REPORT. NONE // SEE ENCLOSURE TO BOARD'S REPORT.

a.  The board did NOT consider such matters.

b.  The board DID consider such matters but only on the issue of retention and NOT considered on characterization.

4. PRESERVICE OR PRIOR SERVICE MATTERS: (MARCORSEPMAN, paragraph 1004)

See MARCORSEPMAN, paragraph 6311 concerning retention in the IRR (Not applicable in misconduct cases).

(a)  SHOULD BE retained in the IRR (Individual Ready Reserve).

(b)  SHOULD NOT BE retained in the IRR.

(5) By a vote of \_\_\_ to \_\_\_ the board recommends that the respondent:

See MARCORSEPMAN, paragraph 6310 concerning suspension.

(a)  SHOULD BE suspended.

(b)  SHOULD NOT BE suspended.

(c)  suspension not authorized.

(4) By a vote of \_\_\_ to \_\_\_ the board recommends the separation:

(a)  Honorable.

(b)  General (under honorable conditions).

(c)  Other than Honorable.

(3) By a vote of 2 to 1 the board recommends the following CHARACTERIZATION:

Subj: ADMINISTRATIVE DISCHARGE BOARD REPORT: FINDINGS AND RECOMMENDATIONS IN THE CASE OF SERGEANT SCOTT DEBORA XXX XX 6534/3043 USMC

7. Pursuant to paragraph 5315.3 of reference (a), the authority to appoint the Record/Assistant Recorder is delegated to the Officer in Charge, Legal Services Support Section, Marine Logistics Group, Camp Pendleton, California.

6. The uniform for all members shall be Service Woodland Marpat "Camies."

5. Consult the reference for guidance in conducting the board (specifically par 6314, section 3, part C). Members of the Administrative Discharge Board will perform their duties in accordance with the instructions contained in this particular section. All personnel named in this appointing order must attend the board hearing.

RANK	NAME	SSN/MOS	UNIT/PHONE#
CWO3	Michael K. Strom	XXX XX 7957/3404	760/725/7089
CWO3	Walter R. Sutton Jr.	XXX XX 2444/0170	760/763/7480
CWO3	Jennifer L. Homan	XXX XX 3031/0170	760/725/7273

4. In addition to the primary members, the following will serve as alternate members in the event that the Convening Authority excuses a primary:

RANK	NAME	SSN/MOS	UNIT/PHONE#
MaJ	Paul A. Simmonds	XXX XX 2542/7509	760/492/5277
MaJ	Erick M. Armelin	XXX XX 1319/0180	714/655/1189

3. The Board will consist of you as the President and the following members:

- a. The non-voting recorder for the board will be detailed by the LSSS.
- b. The defense counsel for the board will be detailed by the LSSS.
- c. The legal advisor for the board will be detailed by the LSSS.

2. The following persons are detailed to this board:

1. Per paragraph 6314 of the reference, an administrative discharge board is hereby convened. You are appointed as president of an administrative discharge board to consider the case of the respondent. You will confirm the time, date, and location of the hearing after consulting the recorder.

Ref: (a) MCO 1900.16E (MARCORSEPMAN)

Subj: APPOINTMENT OF ADMINISTRATIVE DISCHARGE BOARD ICO SERGEANT DEBORAH SCOTT XXX XX 6534/3043 USMC

From: Commanding Officer, Deployment Processing Command-West  
 To: Major Kenneth R. Walden XXX XX 6760/3006 USMC, Senior Member

DEC 09 2009  
 Legal

1910  
 IN REPLY REFER TO:

UNITED STATES MARINE CORPS  
 DEPLOYMENT PROCESSING COMMAND  
 BOX 553111  
 CAMP PENDLETON, CALIFORNIA 92055-5111



Subj: APPOINTMENT OF ADMINISTRATIVE DISCHARGE BOARD ICO SERGEANT DEBORAH SCOTT XXX XX 6534/3043 USMC

8. All primary members (and alternate members when notified by the Recorder) will attend all Board proceedings unless ordered away or properly excused by the Convening Authority. Three members, to include at least one field grade officer, will constitute a quorum. The majority of the Board must be officers. The President with the advice/assistance of the Recorder will schedule board proceedings. All proceedings will be conducted without undue delay.

9. The Recorder, under the direction of you as the President of the Board, will prepare or cause to be prepared a record of the Board's proceedings per reference (a). Both the President and the Recorder will authenticate the record of the proceedings. In the event that you, as the President of the Board, are not reasonably available for signature, one of the other members may, with your consent, sign the record of proceedings for you.

J. D. BARCH  


Copy to:  
Recorder  
Counsel for Respondent  
Board Members  
Respondent

a. To appear in person before such a Board or be represented by counsel if you are confined by civilian authorities.

5. Should you request a hearing before an Administrative Discharge Board, you would be afforded the following rights:

e. You have the right to waive any of these rights after being afforded an opportunity to consult with counsel.

d. You have the right to obtain copies of documents that will be forwarded to the Commanding Officer, Marine Corps Base, Camp Pendleton supporting this proposed separation. Classified documents shall be summarized.

c. You have the right to present written statements to the Commanding Officer in rebuttal to this proposed separation and in lieu of having a hearing.

b. You have the right to request a hearing before an Administrative Discharge Board per paragraph 6304 of the reference.

a. You have the right to consult with qualified counsel prior to do so electing or waiving any of your rights. It is in your best interest to do so prior to waiving any of your rights.

4. As a result of these separation proceedings, you have the following rights:

3. The least favorable characterization of service, which you may receive, is Under Other Than Honorable Conditions. The Commanding Officer, Marine Corps Base, Camp Pendleton will make the final determination of characterization if you are separated.

2. The basis for this recommendation is your admitted use of controlled substances; specifically, Ecstasy (methyl amphetamine) and Marijuana (Tetrahydrocannabinol) during a CID Review of Command Investigation Report dated 13 March 2009. Therein, your personal statement to CID dated 26 March 2009 and a subsequent CID Report of Investigation dated 2 April 2009 substantiates this.

1. You are hereby notified that I intend to recommend to the Commanding Officer, Marine Corps Base, Camp Pendleton that you be administratively separated from the United States Marine Corps per paragraph 6210.5 of the reference due to illegal use of drugs.

Encl: (1) Purpose and Scope of the Naval Discharge Review Board (NDRB) and Board for Correction Naval Records (BCNR) (2) Acknowledgement of Rights

Ref: (a) MCO P1900.16F (MARCORSEPMAN)

Subj: NOTIFICATION OF SEPARATION PROCEEDINGS

From: Commanding Officer Sergeant Deborah Scott XXX XX 6534/3043 USMC

OCT 26 2009

CO 1910

UNITED STATES MARINE CORPS DEPLOYMENT PROCESSING COMMAND BOX 555111 CAMP PENDLETON, CA 92055-5111



Subj: NOTIFICATION OF SEPARATION PROCEEDINGS

b. To be represented by appointed military counsel, or military counsel of your choice, if available.

c. To be represented by civilian counsel if you desire at your own expense.

d. To challenge voting members of the Board or the legal advisor, if any, for cause only.

e. To testify on your own behalf, subject to the provisions of Article 31, UCMJ (compulsory self-incrimination prohibited).

f. At any time during the proceedings you or your counsel may submit written or recorded matter for consideration by the Board.

g. You or your counsel may call witnesses on your behalf.

h. You or your counsel may question any witness who appears before the Board.

i. You or your counsel may present argument prior to the Board's closing the hearing for deliberation on findings and recommendations.

j. Upon written request to the Commanding Officer, Deployment Processing Command to be provided with a copy of the report of the Board and the endorsement.

k. Failure to appear without good cause at a hearing constitutes waiver of your rights to be present at the hearing.

l. You have the right to make a sworn or un-sworn statement.

m. You have the right to examine evidence presented by the Board, to cross-examine witnesses appearing before the Board, to submit evidence before the Board, and to present final argument before the Board.

n. Failure to respond after being afforded a reasonable opportunity to consult with counsel constitutes waiver of the rights in paragraphs 6304.1d to 1m of the reference.

6. If you are separated before you complete an active duty service requirement incurred because you received advance education assistance, or special pays, you may be required to reimburse the U.S. Government on a pro rata basis for the un-served portion of the active service requirement.

7. If you are serving in the pay grade of E-4 or above and are administratively separated with an Other Than Honorable characterization of service, you will be administratively reduced to the pay grade of E-3, such reduction to become effective upon separation.

8. Information on the Purpose and Scope of the Naval Discharge Review Board and Board for Correction of Naval Records is provided to you as enclosure (2).

9. You are directed to respond in writing to this notice within five working days from the date of this letter by completing and returning enclosures (2). Failure to respond by the prescribed time constitutes a waiver of your rights.

J. D. BARRICH  


1. I acknowledge receipt of the reference notifying me to be administratively separated pertaining to the illegal use of drugs specifically, the use of controlled substances Ecstasy (Methylamphetamine) and Marijuana (Tetrahydrocannabinol).

2. I understand that I am being recommended for separation with an Under Other Than Honorable Conditions characterization and that the least favorable characterization of service which I may receive is Under Other Than Honorable Conditions.

3. In view of the above, I choose execute the following rights:

a. Do I (have) (have not) consulted with counsel. I realize it is in my best interest to do so prior to exercising or waiving any of my rights. My counselor's name is: DRPT SAMKITH/DRPT MVTH.

b. Do I (do) (do not) request a hearing before an Administrative Discharge Board.

c. Do In lieu of a hearing, I (have) (have not) included written statements in rebuttal to this proposed separation.

d. Do I (do) (do not) desire to obtain copies of documents that will be forwarded to the Commanding Officer, Marine Corps Base, Camp Pendleton supporting this proposed discharge.

4. If I had requested a hearing before an Administrative Discharge Board, I realize I have the following rights:

a. Do To be present or represented by counsel if I am confined by civil authorities.

b. Do To be represented by appointed military counsel, or of my choice, if available.

c. Do To be represented by civilian counsel if I desire and my own expense.

d. Do To challenge voting members of the Board or the legal advisor, if any, for cause only.

e. Do To testify on my own behalf, subject to the provisions of article 31, UCMJ (Compulsory Self-Incrimination Prohibited).

From: Sergeant Deborah Scott XXX XX 6534/3043 USMC  
 To: Commanding Officer  
 Subj: ACKNOWLEDGEMENT OF MY RIGHTS TO BE EXERCISED OR WAIVED DURING SEPARATION PROCEEDINGS  
 Ref: (a) CO's ltr dtd 26 Oct 09

OCT 27 2009  
 Legal  
 1910

UNITED STATES MARINE CORPS  
 DEPLOYMENT PROCESSING COMMAND  
 BOX 555111  
 CAMP PENDLETON, CA 92055-5111



Subj: ACKNOWLEDGEMENT OF MY RIGHTS TO BE EXERCISED OR WAIVED DURING SEPARATION PROCEEDINGS

f. DS At any time during the proceedings I or my counsel may submit recorded matter for consideration by the Board.

g. DS My counsel or I may call witnesses on my behalf.

h. DS My counsel or I may question any witness who appears before the Board.

i. DS I or my counsel may present argument prior to the Board's closing the hearing for deliberations on findings and recommendations.

j. DS Upon written request to the Commanding Officer, Deployment Processing Command to be provided with a copy of the report of the Board and the endorsement.

k. DS Failure to appear without good cause at a hearing constitutes waiver of my right to be present at the hearing.

l. DS I have the right to make a sworn or un-sworn statement. m. DS I have the right to examine evidence presented by the Board and to submit evidence before the Board.

n. DS Failure to respond after being afforded a reasonable opportunity to consult with counsel constitutes waiver of the rights in paragraph 6304.1m of the reference.

o. DS I understand that if I am separated before I complete an active duty service requirements incurred because I received advance education assistance, bonuses, or special pays, I may be required to reimburse the U.S. government on a pro rata basis for the un-served portion of the active service requirement.

p. DS I understand that if I am serving in the pay grade of E-4 or above and I am administratively separated with an other than Honorable characterization of service, I will be administratively reduced to the pay grade of E-3, such reduction to become effective upon separation.

q. DS I have read and fully understand the information on the Purpose and Scope of the Navy Discharge Review Board and the Board for Correction of Naval Records.

Witness DS Sabrina Krome E7/0563  
Date 07 Oct 09

Respondent DS  
Date 27 Oct 09  
Deborah Scott Sgt/SSN (Last Four) 6534

PURPOSE AND SCOPE OF THE NAVY DISCHARGE REVIEW BOARD AND THE BOARD FOR THE CORRECTION OF NAVAL RECORDS

1. The Board for Corrections on Naval Records (BCNR), consisting of not less than three members, was established pursuant to Title 10 U.S. Code, Section 1552, and considers all applications properly before it for the purpose of determining the existence of an error or an injustice, and to make appropriate recommendations to the secretary of the Navy. Application may be made by the member or former member, or such other persons as the Board determines to be competent for such purpose, the Board correction of Naval Records, unlike the Naval Discharge Review Board (NDRB), may review discharges awarded by a General Court-Martial. Other types of cases reviewed by the Board include, but are not limited to those involving requests for physical disability discharge, and substituting, in lieu thereof, retirement for disability; and increase in the percentage of official record; the review of nonjudicial punishment; and the restoration of rank, grade, or rating. Also, this Board will review the case of a person who is in a Reserve component and who contends that the release from active duty should have been honorable, rather than under honorable conditions (general).

2. The law requires that application be filed with the Board for Correction of Naval Corrections within 3 years of the date of the discovery of the error or injustice. However, the Board is authorized to excuse the fact that the application was filed at a later date if it finds it to be in the interest of justice to consider the application. The Board is empowered to deny an application without a hearing if it finds it to be in the interest of justice to consider the application. The Board is empowered to deny an application without a hearing if it determines that there is insufficient evidence to indicate the existence of probable material error or injustice to the applicant.

3. No application will be considered by the Board until the applicant has exhausted all other effective administrative remedies afforded by existing law or regulations, and such other legal remedies as the Board shall determine are practical and appropriately available to the applicant.

4. An application to the Board for the correction of a record shall not operate as a stay of any proceedings being taken with respect to the person involved. The Board will consider the applicant's case on the basis of all the material before it, including but not limited to, the evidence filed in support of such applications, any brief submitted by or in behalf of the applicant, and all available pertinent records in the Department of the Navy. The applicant's Service Record Book is but one of the records which may be considered by the Board.

6. In cases other than denied applications, the record of proceedings of the Board will be forwarded to the Secretary of the Navy who will direct such actions as determined to be appropriate.

7. In connection with review of executed discharges by the Board for Correction of Naval Records, there is no law or regulation which provides that an unfavorable discharge may be changed to a more favorable discharge solely because of the expiration of a period of time after discharge during which the respondent's behavior has been exemplary. To permit relief, an error or an injustice must be found to have existed during the period of the enlistment in question and the respondent's good conduct after discharge, in and of itself, is not sufficient to warrant changing an unfavorable discharge to a more favorable type of discharge.

8. Application for review and explanatory matters may be obtained by writing the Board for the Correction of Naval Records, Department of the Navy, Washington, D.C. 20370-5100.

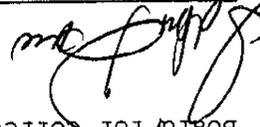
1. The Naval Discharge Review Board (NDRB), consisting of five members, was established pursuant to Title 10, U.S. Code, Section 1553, to review, on its own motion; or upon the request of any former member of Navy or Marine Corps; or in the case of a deceased member of the Navy or Marine Corps, upon the request of the surviving spouse, next of kin, or legal representative, or if incompetent, by the member's guardian; the type and nature of final discharge to determine whether or not, under reasonable standards of naval law and discipline, the type and nature of the discharge should be changed, corrected, or modified, and if so, to decide what modification should be made. The Board may also issue a new discharge in accord with the facts presented to it.
2. The NDRB may review all final separations from the naval service, irrespective of the manner evidenced or brought about, except a discharge awarded by a general court-martial, or a discharge executed more than 15 years before the date of the review application. Such review is based on all available records of the Department of the Navy pertaining to the former member, and such evidence as may be presented or obtained by the Board.
3. NDRB has no authority to revoke any discharge; not to reinstate any person in the military service subsequent to discharge; not to recall any person to active duty; not waive prior disqualifying discharges to permit enlistment in the naval service or any other branch of the Armed Forces; not to cancel enlistment contracts; not to change the reason for discharge from or to physical disability; nor to determine eligibility for veteran's benefits.
4. Relevant and material facts germane to the former member concerned found by a general court-martial, or by a court of inquiry or Board of investigation where the former member was in the status of a defendant or an interested party, as approved by the reviewing authorities, shall be accepted by the Board as established facts in the absence of manifest error or unusual circumstances clearly justifying a different conclusion relevant and material facts stated in a specification to which the former member pleaded guilty before a general or special court-martial, or where, upon being confronted by such a specification, the former member elected to request discharge for the good of the service, shall be accepted by the Board as established facts in the absence of manifest error or unusual circumstances clearly justifying a different conclusion, or unless the former member shall show to the Board's satisfaction, or it shall otherwise appear, that arbitrary or coercive action was taken against the member at the time, which action was no apparent to the reviewing authority from the face of the record.
5. The evidence before the Board which may be considered in connection with a particular discharge document will normally be restricted to that which is relevant and material to the former member's particular term of Marine Corps service or during that term of Marine Corps service, or at the time of separation.
6. To warrant a change, correction, or modification of the original document evidencing separation from the Marine Corps, the former member concerned must show to the satisfaction of the Board, or it must otherwise satisfactorily appear, that the original document was improperly or inequitably issued under member's original separation, or subsequent to separation, were made expressly retroactive to separations of the type and character had by the former member.
7. In connection with review of executed discharges by the NDRB, there is no law or regulation which provides that an unfavorable discharge may be changed to a more favorable discharge solely because of the expiration of a period of

I have been advised of the purpose and procedure for making application to the Board for correction of Naval Records and the Navy Discharge Review Board.

STATEMENT OF THE INDIVIDUAL

8. Applications for review and explanatory matter may be obtained by writing the Board for the Correction of Naval Records, Department of the Navy, Washington, D.C. 20370-5100.  
time after discharge during which the respondent's behavior has been exemplary. To permit relief, and error or injustice must be found to have existed during the period of the enlistment in question and the respondent's good conduct after discharge, in and of itself, is not sufficient to warrant changing an unfavorable discharge to a more favorable type of discharge.

Printed Name (Witness)  
Sabrina Rive  
Witness Signature



Printed Name (Respondent)  
Deborah Scott/E-5/USMC

Respondent Signature Date



27 OCT 09



ORIGINAL

1. In exchange for your full and truthful cooperation in the court-martial process, to include interviews with appropriate command personnel, the trial counsel, and defense counsel, including your testimony as a witness if necessary, you are hereby granted immunity from the use of your testimony or other information given by you on or after the date this letter is signed. This use of immunity includes any evidence that may be derived either directly or indirectly from your testimony. Accordingly, neither your testimony nor the derivative evidence may be used against you in any criminal case, except for prosecution for perjury, making a false statement, or otherwise failing to comply with an order to testify in this matter.

2. This grant of immunity is effective upon delivery by the trial counsel but only if you cooperate fully and truthfully in the above matter, and testify under oath if necessary as a witness in the matter described in paragraph (1).

3. This grant of immunity will not have any effect on any administrative proceedings. Additionally, this grant of immunity does not extend to any testimony or other information provided by you prior to the date this letter was signed.

4. This grant of immunity is made pursuant to my authority as a general court-martial convening authority as stated in Rule for Courts-Martial 704, Manual for Courts-Martial (2008 Edition) and section 0120 of the Manual of the Judge Advocate General.

5. You are hereby ordered to fully cooperate/testify as outlined in paragraph (1). This order specifically requires you to cooperate fully and truthfully in all interviews with appropriate command personnel, defense counsel, and trial counsel. This order further requires you to testify truthfully should that be necessary.

6. The failure to fully and truthfully cooperate is punishable under the Uniform Code of Military Justice. For example, if you refuse to be interviewed, that conduct is punishable as a violation of a law of order under Article 90, UCMJ. Such conduct may also constitute obstruction of justice in violation of Article 134, UCMJ. Moreover,

Subject: GRANT OF TESTIMONIAL IMMUNITY AND ORDER TO COOPERATE/TESTIFY IN THE CASE OF CORPORAL VILMA F. FERNANDEZMIRANDA, USMC

From: Commanding Officer, Marine Corps Base Camp Pendleton  
 To: Sergeant Deborah Scott

NOV 0 7 2009  
 STA  
 5800  
 IN REPLY REFER TO:

UNITED STATES MARINE CORPS  
 MARINE CORPS BASE  
 BOX 556010  
 CAMP PENDLETON, CALIFORNIA 92055-5010



ORIGINAL

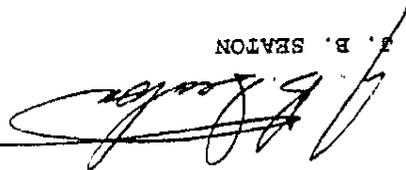
D. SCOTT

2. I understand and will comply with the contents of this order.

1. I received this order at \_\_\_\_\_ on \_\_\_\_\_

From: Sergeant Deborah Scott, XXX-XX-6534, USMC  
To: Commanding Officer, Marine Corps Base Camp Pendleton

FIRST ENDORSEMENT

  
J. B. SEATON

Subj: GRANT OF TESTIMONIAL IMMUNITY AND ORDER TO COOPERATE/TESTIFY  
IN THE CASE OF CORPORAL VILMA F. FERNANDEZMIRANDA, USMC  
if the statements that you make to counsel are untruthful, that  
conduct is punishable as making a false official statement in  
violation of Article 107, UCMJ. You are directed to make full and  
truthful statements regarding your knowledge of the above case and  
investigation.

U.S. GPO: 1991-0-540-002/20148

Previous editions are obsolete

NAVNIC (11) (REV. 3-83) SN 0000 00-000 2706 (M) PADS OF 100

NAME (LAST)	SCOTT
(FIRST)	DEBORAH
(MID)	
SSN	XXX XX 6534

I don't refuse to sign Pg 11. I just need to go over Pg 11 with my defense counsel due to the fact of my numerous incorrect Pg 11's given to me by the command prior to this Pg 11. I was told this Pg 11 had to be submitted with or without my signature. I will be going over this Pg 11 with my defense counsel this week before I sign.

11/23/09  
Sgt Scott  
JL

25 Nov 09 : Counseled this date concerning the following : your sworn statement admitting to the use of controlled substances during a Criminal Investigation Division (CID) Report dated 26 March 2009, specifically: Ecstasy (Methylamphetamine) and Marijuana (Tetrahydrocannabinol). This type of activity is unacceptable behavior by Marines. Your specific recommendations for corrective action are, do not violate orders or regulations of the UCMJ, be accountable for your actions, do not use controlled substances, and to seek assistance, which is available through the chain of command and the Command SACO. I understand that I am being processed for Administrative Separation, with a reenlistment code of RE-4B. I was advised that within 5 working days after acknowledging this entry I may submit a written rebuttal, which will be filed on the document side of the service record. I choose (10) (not 10) make such a statement.

JAMES D BARICH, COMMANDING OFFICER

DATE: 25 Nov 09  
Articles UCMJ explained to me this date as required by Article 137 UCMJ.

Signature

ADMINISTRATIVE REMARKS (1070)

6

U.S. GPO: 1991-0-540-002/20148

11

Previous editions are obsolete

NAVMC (11) (REV 1-82) SN 0606-00-000-2706 U/I PADS OF 100

NAME (LAST)	SCOTT
NAME (FIRST)	DEBORAH
(MI)	
SSN	XXX XX 6534

I don't refuse to sign Pg 11. I just need to go over this Pg 11 with my defense counsel due to the fact that my numerous incorrect pg 11's given to me by this command prior to this pg 11. I was told this Pg 11 had to be submitted with or without my signature. I will be going over this Pg 11 with my defense counsel this week before I sign.

11/23/09  
Sgt Scott  
JLH

JAMES D. BARIKH, COMMANDING OFFICER

SNM

I understand that I may be eligible but am not recommended for promotion to E6 due to pending administrative separation proceedings. IAW MCO P1400.32D, Chapter 1204, Paragraph U as applicable, unless waived by appropriate authority. I was advised that within 5 working days after acknowledging this entry, a written rebuttal may be submitted and this rebuttal will be filed on the document side of the Service Record Book. I choose (TO) (NOT TO) make such a statement.

DATE: 25 Nov 09  
Articles UCMJ explained to me this date as required by Article 137 UCMJ.

Signature

DATE: 25 Nov 09  
Articles UCMJ explained to me this date as required by Article 137 UCMJ.

Signature

ADMINISTRATIVE REMARKS (1070)



ARTICLE 31 RIGHTS

Rank/Rate: Sergeant  
Unit: DPC-West

Name: Deborah Scott  
Activity: Administrative Separation  
Telephone number: 725-7291

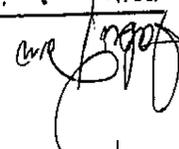
I have been advised that I may be suspected of the offense(s) of: Your admitted use and purchase of controlled substances; specifically, Ecstasy (Methyl amphetamine) and Marijuana (Tetrahydrocannabinol):

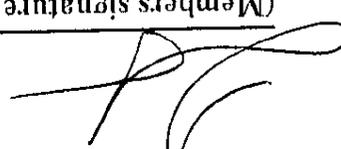
- I have the right to remain silent
- Any statements I do make may be used as evidence against me in trial by Court-martial.
- I have the right to consult with lawyer counsel prior to any questioning. This lawyer counsel may be a civilian lawyer retained by me at my own Expenses, a military lawyer appointed to act as my counsel without cost to Me, or both.
- I have the right to have such retained civilian lawyer and/or appointed military lawyer present during this interview.
- I have the right to terminate this interview at any time.

WAIVER OF RIGHTS

I further certify and acknowledge that I have read the above statement of my rights and fully understand them, and that:

- I expressly desire to waive my right to remain silent.
- I expressly desire to make a statement.
- I expressly do not desire to consult with either civilian lawyer retained by me or a military lawyer appointed as my counsel without cost to me prior to questioning.
- I expressly do not desire to have such a lawyer present with me during this interview.
- This acknowledgment and waiver of rights is made freely and voluntarily by me, and without any promises or threats having been made to me or pressure or coercion of any kind having been used against me.

(Witness's signature and date)  10/21/09

(Members signature and date)  10/21/09

Understanding my rights under the U.C.M.J. Article 31, I wish to make the following statement

Copy to:  
SACO

*[Handwritten Signature]*  
D. J. VENEZIANO

Administration Office at DSN 365-5538.  
2. Please complete enclosure (1) and return within (5) working days. The point of contact of for this matter is the CSACC  
b. Process service member for administrative separation per reference (a) and (c) due to admission of inservice drug use.  
a. Return to duty

1. Sergeant Scott was evaluated per reference (a) by Ms. O'Brien, a Licensed Independent Practitioner, on 30 October 2009 due to a self referral for inservice drug use. Ms. O'Brien's evaluation is that the service member meets the requirements for substance related event (V65.42) per reference (b) and the following is recommended:

Encl: (1) Concurrence Letter

Ref: (a) MCO P1700.24B  
(b) Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)  
(c) MCO P1900.16F

Subj: MEDICAL OFFICER EVALUATION IGO Sergeant Scott, Deborah  
6534 USMC

From: Director, Consolidated Substance Abuse Counseling Center  
To: Commanding Officer, DPC, Camp Pendleton, CA

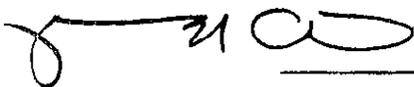
NOV 05 2009  
M&FSLD  
1700  
IN REPLY REFER TO:

UNITED STATES MARINE CORPS  
CONSOLIDATED SUBSTANCE ABUSE COUNSELING CENTER  
Box 555016 MARINE CORPS BASE  
CAMP PENDLETON CALIFORNIA 92055-5016



12 Nov 2009

CO's Signature



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

N/A

( ) I do not concur with the recommended treatment/class date for the following reasons:  
( ) I concur with the recommended treatment/class date.

1. I have reviewed Sergeant Scott's unit file and Medical Officer's diagnosis (if applicable) and:  
From: Commanding Officer, DPC  
To: Director, Consolidated Substance Abuse Counseling Center

FIRST ENDORSEMENT on DIR, GSACC MCB CPEN 1st 1700 WAFSP

CHRONOLOGICAL RECORD OF MEDICAL CARE STANDARD FORM 600

DEPART/SERVICE USMC		SSN/IDENTIFICATION NO. 257 63 4534	DATE OF BIRTH 12/3/85
SPONSOR NAME		ORGANIZATION USMC	
RELATIONSHIP TO SPONSOR		STATUS	RANK/GRADE Sgt
PATIENTS NAME DOROTHY S.C.H.		SEX F	
PATIENTS IDENTIFICATION (use this page for mechanical imprints)		RECORDS MAINTAINED AT	

Substance Abuse Counselor

ADJ-11

Dorothy G. Woodley

Witness Signature

*[Signature]*

Date

Patient Signature

*[Signature]*

Date

12/31/09

TO OBTAIN THE ADDRESS OF THE VA ALCOHOL AND DRUG TREATMENT FACILITY CLOSEST TO MY PLACE OF RESIDENCE, I SHOULD CALL 1-800-827-1000

I ALSO UNDERSTAND THAT I MAY REQUEST TREATMENT AT A VA ALCOHOL AND DRUG REHABILITATION PROGRAM AFTER DISCHARGE/SEPARATION.

TREATMENT

ADMINISTRATION (VA) ALCOHOL AND DRUG REHABILITATION TREATMENT IS AVAILABLE TO ELIGIBLE SERVICE MEMBERS WHO ARE ALCOHOL AND OR DRUG DEPENDENT AND DESIRE

THAT IN ACCORDANCE WITH THE CURRENT MARINE CORPS DIRECTIVE AND PUBLIC LAW, VETERAN

UNDERSTAN	(SSN)	(NAME)	(RANK)	I.
	257 63 4534	S.C.H., D	Sgt	

VA TREATMENT LOCATION STATEMENT

CAMP PENDLETON, CA 92055-6066

FOR FURTHER INFORMATION, PLEASE CONTACT THE OFFICE

THIS IS THE LAST  
PAGE OF THE FAX  
FOR DEBORAH  
SCOTT