

**INVESTIGATING OFFICER'S REPORT**

*(Of Charges Under Article 32, UCMJ and R.C.M. 405, Manual for Courts-Martial)*

1a. FROM: <i>(Name of Investigating Officer - Last, First, MI)</i> LEVINE, JOSHUA D.	b. GRADE CAPT/0-3	c. ORGANIZATION JOINT LAW CENTER, H&HS, MCAS MIRAMAR, CA	d. DATE OF REPORT 24 JUNE 2010
2a. TO: <i>(Name of Officer who directed the investigation - Last, First, MI)</i> SWAN, WILLIAM II.	b. TITLE COMMANDING OFFICER	c. ORGANIZATION MARINE FIGHTER ATTACK SQUADRON 323 (VMFAT 323)	
3a. NAME OF ACCUSED <i>(Last, First, MI)</i> WYLDE, AARON V.	b. GRADE PFC/E-2	c. SSN 521710964	d. ORGANIZATION VMFAT 323
			e. DATE OF CHARGES 11, 26 MAY 2010

*(Check appropriate answer)*

4. IN ACCORDANCE WITH ARTICLE 32, UCMJ, AND R.C.M. 405, MANUAL FOR COURTS-MARTIAL, I HAVE INVESTIGATED THE CHARGES APPENDED HERETO (Exhibit 1)	YES	NO
5. THE ACCUSED WAS REPRESENTED BY COUNSEL (If not, see 9 below)	X	
6. COUNSEL WHO REPRESENTED THE ACCUSED WAS QUALIFIED UNDER R.C.M. 405(d) (2), 502(d)	X	

7a. NAME OF DEFENSE COUNSEL <i>(Last, First, MI)</i> CROSSWELL, RYAN R.	b. GRADE CAPT	8a. NAME OF ASSISTANT DEFENSE COUNSEL <i>(If any)</i>	b. GRADE
c. ORGANIZATION <i>(If appropriate)</i> JOINT LAW CENTER, H&HS, MCAS MIRAMAR, CA		c. ORGANIZATION <i>(If appropriate)</i>	
d. ADDRESS <i>(If appropriate)</i>		d. ADDRESS <i>(If appropriate)</i>	

9. *(To be signed by accused if accused waives counsel. If accused does not sign, investigating officer will explain in detail in Item 21.)*

a. PLACE	b. DATE
----------	---------

I HAVE BEEN INFORMED OF MY RIGHT TO BE REPRESENTED IN THIS INVESTIGATION BY COUNSEL, INCLUDING MY RIGHT TO CIVILIAN OR MILITARY COUNSEL OF MY CHOICE IF REASONABLY AVAILABLE. I WAIVE MY RIGHT TO COUNSEL IN THIS INVESTIGATION.

c. SIGNATURE OF ACCUSED

10. AT THE BEGINNING OF THE INVESTIGATION I INFORMED THE ACCUSED OF: <i>(Check appropriate answer)</i>	YES	NO
a. THE CHARGE(S) UNDER INVESTIGATION	X	
b. THE IDENTITY OF THE ACCUSER	X	
c. THE RIGHT AGAINST SELF-INCRIMINATION UNDER ARTICLE 31	X	
d. THE PURPOSE OF THE INVESTIGATION	X	
e. THE RIGHT TO BE PRESENT THROUGHOUT THE TAKING OF EVIDENCE	X	
f. THE WITNESSES AND OTHER EVIDENCE KNOWN TO ME WHICH I EXPECTED TO PRESENT	X	
g. THE RIGHT TO CROSS-EXAMINE WITNESSES	X	
h. THE RIGHT TO HAVE AVAILABLE WITNESSES AND EVIDENCE PRESENTED	X	
i. THE RIGHT TO PRESENT ANYTHING IN DEFENSE, EXTENUATION, OR MITIGATION	X	
j. THE RIGHT TO MAKE A SWORN OR UNSWORN STATEMENT, ORALLY OR IN WRITING	X	


11a. THE ACCUSED AND ACCUSED'S COUNSEL WERE PRESENT THROUGHOUT THE PRESENTATION OF EVIDENCE *(If the accused or counsel were absent during any part of the presentation of evidence, complete b below.)*

	YES	NO
	X	

b. STATE THE CIRCUMSTANCES AND DESCRIBE THE PROCEEDINGS CONDUCTED IN THE ABSENCE OF ACCUSED OR COUNSEL

**NOTE:** If additional space is required for any item, enter the additional material in Item 21 or on a separate sheet. Identify such material with the proper numerical and, if appropriate, lettered heading (Example: "7c".) Securely attach any additional sheets to the form and add a note in the appropriate item of the form: "See additional sheet."

ENCLOSURE (1)

12a. THE FOLLOWING WITNESSES TESTIFIED UNDER OATH: (Check appropriate answer)				
NAME (Last, First, MI)	GRADE (if any)	ORGANIZATION/ADDRESS (Whichever is appropriate)	YES	NO
WOOD, ANTHONY	MA1/E-6	CID, NAS FALLON, NEVADA	X	
WHALEY, SCOTT A.	MA1/E-6	CID, NAS FALLON, NEVADA	X	
WILLIAMS, JAMES C.	MA1/E-6	CID, NAS FALLON, NEVADA	X	
WILEY, MICHAEL D.	LCPL/E-3	VMFAT 323, 3D MAW, MCAS MIRAMAR	X	
FLIEGEL, DANIEL W.	SGTMAJ/E-9	VMFAT 323, 3D MAW, MCAS MIRAMAR	X	
LOGSDON, TEDDY L.	LCPL/E-3	VMFAT 323, 3D MAW, MCAS MIRAMAR	X	
b. THE SUBSTANCE OF THE TESTIMONY OF THESE WITNESSES HAS BEEN REDUCED TO WRITING AND IS ATTACHED.			X	
13a. THE FOLLOWING STATEMENTS, DOCUMENTS, OR MATTERS WERE CONSIDERED; THE ACCUSED WAS PERMITTED TO EXAMINE EACH.				
DESCRIPTION OF ITEM	LOCATION OF ORIGINAL (If not attached)		YES	NO
SEE ATTACHED ADDENDUM (LISTING INVESTIGATIVE EXHIBITS 1-25)			X	
b. EACH ITEM CONSIDERED, OR A COPY OR RECITAL OF THE SUBSTANCE OR NATURE THEREOF, IS ATTACHED			X	
14. THERE ARE GROUNDS TO BELIEVE THAT THE ACCUSED WAS NOT MENTALLY RESPONSIBLE FOR THE OFFENSE(S) OR NOT COMPETENT TO PARTICIPATE IN THE DEFENSE. (See R.C.M. 909, 916(k).)				X
15. THE DEFENSE DID REQUEST OBJECTIONS TO BE NOTED IN THIS REPORT (If Yes, specify in Item 21 below.)				X
16. ALL ESSENTIAL WITNESSES WILL BE AVAILABLE IN THE EVENT OF TRIAL			X	
17. THE CHARGES AND SPECIFICATIONS ARE IN PROPER FORM			X	
18. REASONABLE GROUNDS EXIST TO BELIEVE THAT THE ACCUSED COMMITTED THE OFFENSE(S) ALLEGED			X	
19. I AM NOT AWARE OF ANY GROUNDS WHICH WOULD DISQUALIFY ME FROM ACTING AS INVESTIGATING OFFICER. (See R.C.M. 405(d) (1).)			X	
20. I RECOMMEND:				
a. TRIAL BY <input type="checkbox"/> SUMMARY <input type="checkbox"/> SPECIAL <input checked="" type="checkbox"/> GENERAL COURT-MARTIAL				
b. <input type="checkbox"/> OTHER (Specify in Item 21 below)				
21. REMARKS (Include, as necessary, explanation for any delays in the investigation, and explanation for any "no" answers above.)				
SEE ATTACHED ADDENDUM				
22a. TYPED NAME OF INVESTIGATING OFFICER		b. GRADE	c. ORGANIZATION	
JOSHUA D. LEVINE		CAPT/0-3	JOINT LAW CENTER, H&HS, MCAS MIRAMAR, CA	
d. SIGNATURE OF INVESTIGATING OFFICER			e. DATE	
			25 JUNE 2010	

**ADDENDUM TO DD FORM 457**  
**ICO**  
**UNITED STATES v. PFC AARON V. WYLDE**

12.b. Summary of Witness Testimony

**MA1 ANTHONY WOOD**

MA1 Anthony Wood, USN, is a Security Detachment Patrol Officer at NAS Fallon, Nevada. In early May 2010, he responded to a medical emergency involving a young Marine that had fallen in a rocky area along a parking lot. The Marine, LCpl Michael Wiley, was having a seizure. MA1 Wood's duties primarily focused on crowd control. He testified that MA2 Edwards, MA2 Ruiz, and a fire chief entered LCpl Wiley's barrack's room in order to look for medication to determine the potential cause of his symptoms.

MA1 Wood is willing and available to testify if he is requested as a witness at any future court proceeding.

**MA1 SCOTT A. WHALEY**

MA1 Scott A. Whaley, USN, is a Command Investigator with CID onboard NAS Fallon, Nevada. On 4 May 2010, he received a phone call regarding a Marine found lying on the ground having what appeared to be serious medical issues. The Marine, later identified as LCpl Michael Wiley, had reportedly jumped from a balcony, ran, and then low-crawled on rocks before coming to a stop. Two witnesses saw LCpl Wiley foaming at the mouth and stated that he was having a difficult time saying his name. After arriving at the scene, patrol officers conducted an exigency search of LCpl Wiley's room in order to search for medications that could have caused his symptoms. Investigators were not involved in this initial search.

During the exigency search, the patrol officers found a bag of green leafy substance in a rucksack under one of the beds in the room. The patrol officers immediately stopped their search, called CID, and left the room. CID then obtained a verbal search authorization from CAPT Michael Glaser, USN, Commanding Officer, NAS Fallon, Nevada. After receiving the search authorization, Investigator Whaley participated in a search of the room, discovering several items of interest belonging to LCpl Aaron Wylde to include:

- A notebook that appeared to Investigator Whaley, based on his training and experience, to contain a detailed business plan for selling some type of illicit drugs. Investigator Whaley explained that the numbers and weight units in the notebook were consistent with those typically used by drug dealers.
- A bag of a green leafy substance.
- A glass imitation cigarette pipe that in Investigator Whaley's training and experience is paraphernalia commonly associated with drug use.
- A roll of approximately 36 plastic zip lock baggies of the same type that contained the green leafy substance.

LCpl Wiley went on to testify that on the morning of 4 May, PFC Wylde had asked him if he wanted to smoke some Spice. LCpl Wiley agreed and claims to have smoked only "one bowl." On that occasion, PFC Wylde did not charge him any money. After smoking the Spice, LCpl Wiley laid down, but at some point got back up and went outside to try to get some fresh air. He remembers leaving the door to his room open and then laying on some rocks, but nothing else. LCpl Wiley then recalls waking up in an ambulance and then passing back out. He does not remember being examined at the hospital but vaguely remembers a Gunnery Sergeant saying something to him. According to LCpl Wiley, his next memory is of being at "the police station."

LCpl Wiley testified that "Spice" is a generic term that can represent a variety of brand name products. He said the substance was also known as "Buddha." LCpl Wiley added that Spice does not look like tobacco.

LCpl Wiley testified that he met PFC Wylde at the end of January or beginning of February 2010. LCpl Wiley stated that he observed PFC Wylde use Spice approximately 2 weeks after he met him. LCpl Wiley also explained that PFC Wylde would store Spice in his backpack. At some point, PFC Wylde told LCpl Wiley that he was going to sell Spice to local smoke shops. LCpl Wiley also noted that PFC Wylde had a spray bottle in his room that he believed PFC Wylde used to make Spice, but LCpl Wiley is not certain of this fact.

According to LCpl Wiley, the first time he bought a baggie (approximately 3" x 4") of Spice from PFC Wylde, he was charged \$60. The next two baggies he bought from PFC Wylde were \$40 each and were the same size. PFC Wylde would load the smaller plastic bags from the large plastic bag of Spice he would keep in his backpack whenever he would make a sale. LCpl Wiley believes that PFC Wylde sold Spice to LCpl Logsdon the night prior to the incident because he heard the term "Spice" being used when LCpl Logsdon came to the room. However, LCpl Wiley did not actually see the transaction transpire.

LCpl Wiley stated that he may be leaving on an exercise aboard the USS Ronald Reagan for two months in the near future, but he is willing to testify if he is requested as a witness at any future court proceeding.

### **SGTMAJ DANIEL W. FLIEGEL**

SgtMaj Fliegel is the Squadron Sergeant Major for VMFAT 323. On 4 May 2010, he was at NAS Fallon, Nevada, as part of VMFAT 323's workup for their deployment onboard the USS Ronald Reagan. He noted that the training at Fallon was important training and that it required an increased operational pace for the enlisted Marines.

While SgtMaj Fliegel was attending a welcome aboard brief at NAS Fallon's Liberty Center, one of the speakers mentioned that there was a medical emergency involving a Marine outside the building. SgtMaj Fliegel responded by going outside where he saw an individual wearing boxer shorts and a green skivvy shirt lying on the ground. The individual's lips were turning blue and he was unresponsive. SgtMaj Fliegel also noted that he was foaming at the mouth and had cuts and scrapes on his body from crawling across the rocks. Medical personnel were on scene and

asked if LCpl Wiley was on any type of medications. In response, security personnel went to LCpl Wiley's room to search for medications that may have caused his symptoms.

SgtMaj Fliegel testified that the Marines in VMFAT 323 were briefed that the use of Spice was prohibited in the Marine Corps and specifically recalled the Commanding Officer discussing the issue at an all hands brief in February 2010. He stated that he believed the Marine Corps had banned the substance at some point in 2009, but did not give any specific times when the Marines were briefed on its legality other than the discussion in February of this year.

SgtMaj Fliegel explained that after the Spice was discovered, PFC Wylde and LCpl Wiley were placed on pre-trial restriction and watched by an SNCO from the unit, SSgt Branch. At one point, SSgt Branch picked up a note from the trash can that he believed was being passed from PFC Wylde to LCpl Wiley. This note is included as Investigative Exhibit 18.

SgtMaj Fliegel will be deploying for two months aboard the USS Ronald Reagan in the near future, but is willing testify if he is requested as a witness at any future court proceeding.

#### **LCPL TEDDY L. LOGSDON**

LCpl Logsdon was read his Article 31(b) rights, and agreed to voluntarily waive these rights and testify under oath at the Article 32 hearing. LCpl Logsdon was not represented by counsel and knowingly and voluntarily declined to seek counsel prior to testifying.

LCpl Logsdon began his testimony by reviewing the sworn statement that he provided to CID on 7 May 2010, verifying its accuracy, and again adopting the statement as his sworn testimony at the hearing. A copy of LCpl Logsdon's statement is included as Investigative Exhibit 10.

LCpl Logsdon described Spice as looking similar to marijuana, "like dirt," with a green color. He stated that Spice was legal for civilians but was not permitted in the Marine Corps. He noted that "Spice" is a generalized term for the substance. He also testified that he learned that Spice was illegal in April 2010, but stated that he would not have used it in front of an NCO in January 2010 because he would "not want to take that risk."

LCpl Logsdon testified that there was never any confusion as to whether using Spice was wrong. LCpl Logsdon explained that "if it looks like bud and smells like bud, you probably shouldn't be doing it."

LCpl Logsdon will not be aboard the USS Ronald Reagan for the upcoming deployment and is willing testify if he is requested as a witness at any future court proceeding.

#### 13.a. List of Investigative Exhibits

The following Investigative Exhibits were considered and the items, or a copy or recital of the substance or nature thereof, is attached. The accused and his defense counsel were permitted to examine each of the Investigative Exhibits prior to consideration by the Investigating Officer.

- IE 1: Appointing Order
- IE 2: Charge Sheet (preferred 11 May 2010)
- IE 3: Charge Sheet- Additional Charge (preferred 26 May 2010)
- IE 4: Proposed Additional Charge under Article 134, UCMJ, Re: Possession of Metal Knuckles Onboard NAS Fallon
- IE 5: Defense Continuance Requests (dated 24 May and 3 June 2010)
- IE 6: U.S. Marine Corps Forces, Pacific Order 5355.2, dated 1 December 2010
- IE 7: U.S. Marine Corps Air Station Order 5300.1, dated 31 August 2010
- IE 8: SECNAV Instruction 5300.28D, dated 5 December 2005
- IE 9: Sworn Statement of PFC Aaron V. Wylde, USMC, dated 4 May 2010
- IE 10: Sworn Statement of LCpl Teddy L. Logsdon, USMC, dated 7 May 2010
- IE 11: Sworn Statement of LCpl Michael D. Wiley, USMC, dated 4 May 2010
- IE 12: Pictures of Room 6483, Building 475, MCAS Miramar
- IE 13: Pictures of bag of "Marshmallow Leaf C/S"
- IE 14: U.S. Army Criminal Investigation Laboratory Drug Chemistry Branch Final Report, dated 17 May 2010
- IE 15: "JWH-018" ([http://www.deadiversion.usdoj.gov/drugs\\_concern/spice/spice\\_jwh018.htm](http://www.deadiversion.usdoj.gov/drugs_concern/spice/spice_jwh018.htm))
- IE 16: "JWH-073" ([http://www.deadiversion.usdoj.gov/drugs\\_concern/spice/spice\\_jwh073.htm](http://www.deadiversion.usdoj.gov/drugs_concern/spice/spice_jwh073.htm))
- IE 17: Nevada Revised Statute §202.350 (<http://www.leg.state.nv.us/NRS/NRS-202.html>)
- IE 18: Hand-written Note on "Muscular Development" Business Reply Card
- IE 19: Sworn Statement of Lakrisha A. Ernst, dated 4 May 2010
- IE 20: Sworn Statement of John Sopiak, dated 4 May 2010
- IE 21: Results of Command Authorized Search of Living Quarters, dated 11 May 2010
- IE 22: Criminal Investigative Division, Report of Investigation (Interim), dated 10 May 2010
- IE 23: Notes taken by PO1 James C. Williams, USN, during CID interviews of PFC Aaron Wylde, LCpl Teddy Logsdon, and LCpl Michael Wiley
- IE 24: Proposed Additional Charge under Article 107, UCMJ, Re: False Official Statement about Reason for Using Spice
- IE 25: Directed Comments by Counsel Submitted 15 June 2010

## 21. Remarks

### a. **Charge I- Violation of UCMJ, Article 92:**

#### i. Specifications 1-3 - Wrongfully Possessing Spice with the Intent to Distribute.

There is probable cause to believe that PFC Wylde wrongfully used and possessed Spice in violation of Marine Corps Air Station Miramar Order 5300.1 and Marine Corps Forces, Pacific Order 5355.2 as alleged in Specifications 1, 2, and 3. This conclusion is supported by an abundance of evidence, including PFC Wylde's sworn confession (IE 9) as well as the sworn statements and testimony of LCpl Logsdon (IE 10) and LCpl Wiley (IE 11). I recommend that both specifications be forwarded to a General Court-Martial.

ii. Specification 4- Wrongfully Possessing Drug Abuse Paraphernalia. Specification 4 charges PFC Wylde with the wrongful possession of "drug abuse paraphernalia" in the form of a glass pipe in violation of SECNAVINST 5300.28D (IE 8). The glass pipe at issue is an imitation glass cigarette. Enclosure (4), paragraph 1(i) of SECNAVINST 5300.28D defines

“drug abuse paraphernalia” as “[a]ll equipment, products, and materials of any kind that are used, intended for use, or designed for use in...inhaling or otherwise introducing into the human body” a “controlled substance.” Trial counsel concedes in written comments on this issue (IE 25) that “JWH-018, JWH-073, or other cannabinoid mimicking compounds used to manufacture ‘Spice’ are not controlled substances within the meaning of the controlled substance act.” This statement mirrors sworn testimony by CID Investigator Scott Whaley. Investigator Whaley also noted in his testimony that no illicit substances other than Spice were found or detected in the pipe or anywhere in PFC Wylde’s room. Investigator Whaley did broadly support trial counsel’s position by testifying that glass pipes are often used for smoking marijuana. However, there was no evidence presented that the specific pipe found was tailored for smoking marijuana as opposed to any other inhalant or that it had ever been used to smoke marijuana. Instead, the weight of the evidence suggests that PFC Wylde used the pipe exclusively for inhaling Spice, a substance currently legal for civilians, thus indicating the existence of “legitimate” uses for the pipe in the civilian community. While there is little doubt that the pipe was used to facilitate illicit conduct (i.e., the inhalation of Spice), the technical definition of “paraphernalia” under SECNAVINST 5300.28D contemplates a close nexus between the object and a “controlled substance.” Because Spice is not a “controlled substance” under the relevant law, I find that there is not probable cause to believe that PFC Wylde wrongfully possessed drug abuse paraphernalia within the meaning of SECNAVINST 5300.28D. Accordingly, I recommend that this specification be dismissed.<sup>1</sup>

iii. Specifications 5 and 6- Wrongfully Distributing Spice to LCpl Logsdon and LCpl Wiley. There is probable cause to believe that PFC Wylde wrongfully distributed Spice to LCpl Logsdon and LCpl Wiley in violation of Marine Corps Forces, Pacific Order 5355.2. This conclusion is supported by an abundance of evidence, including PFC Wylde’s sworn confession (IE 9) as well as the sworn statements and testimony of LCpl Logsdon (IE 10) and LCpl Wiley (IE 11). I recommend that both specifications be forwarded to a General Court-Martial.

**b. Additional Charge- Violation of UCMJ, Article 134:**

i. Specifications 1- Wrongfully Manufacturing Spice. There is probable cause to believe that PFC Wylde wrongfully manufactured Spice with intent to distribute and that this conduct was prejudicial to good order and discipline. This conclusion is supported by PFC Wylde’s own sworn statement (IE 9), the sworn statements and testimony of LCpl Logsdon (IE 10) and PFC Wiley (IE 11), and the physical evidence found in PFC Wylde’s room (e.g., notebook, spray bottle, etc.). PFC Wylde claims in his statement that he was manufacturing the Spice only to sell it to a local smoke shop. While this may be partially true, the evidence suggests he also intended, and in fact did, sell the Spice he manufactured to his fellow Marines. Due to the serious nature of this conduct, I recommend that this specification be forwarded to a General Court-Martial.

ii. Specification 2- Wrongfully Distributing Spice to an Unknown Smoke Shop. In his sworn statement provided 4 May 2010, PFC Wylde admits to distributing Spice to a local smoke shop. There is an argument to be had that distributing a substance that is legal outside of

---

<sup>1</sup> Notwithstanding this recommendation, I find that the glass pipe is still significant evidence supporting the government’s use and possession allegations.

the military to a civilian business is not prejudicial to good order and discipline. However, I do not find this position persuasive as such conduct would allow servicemembers to benefit from their illicit activities (i.e., manufacturing and possessing an illegal substance under military law) and potentially encourage other servicemembers to follow suit in order to gain similar profits. As such, I find that there is probable cause to believe that such conduct is prejudicial to good order and discipline, and thus, recommend this specification be forwarded to a General Court-Martial.

iii. Specification 3- Wrongfully Introducing Spice onto a Military Aircraft. PFC Wylde in his sworn statement from 4 May 2010 states that “I did take about 100 grams [of Spice] from Mira Mar with me to Fallon, Nevada on a C5 for personal use.” Based on this admission, I find that there is probable cause to believe that PFC Wylde committed the charged conduct and recommend this specification be forwarded to a General Court-Martial.

iv. Specification 4- Wrongful Possession of Metal Knuckles in Violation of Section 202.350 of the Nevada Revised Statutes, assimilated into Federal law by 18 U.S.C. Section 13. At the beginning of the Article 32 hearing, trial counsel indicated that the government intends to dismiss this specification due to the fact that proprietary jurisdiction is exercised over NAS Fallon, Nevada. The government intends to charge the conduct as prejudicial to good order and discipline and service discrediting instead under Article 134, UCMJ. This proposed additional charge (IE 4) is discussed below. In accordance with the government’s wishes, I recommend that you dismiss this specification.

**c. Proposed Additional Charge- Violation of UCMJ, Article 134 (IE 4):**

As discussed above, during the Article 32 hearing, trial counsel indicated that the government intends to dismiss Specification 4 of the Additional Charge (wrongful possession of metal knuckles under the Assimilated Crimes Act) and prefer a new additional charge. Due to time considerations, the new proposed charge was not preferred, but a new proposed additional charge was drafted and provided to defense counsel. Defense counsel and PFC Wylde indicated that they understood the proposed additional charge, they were notified that I would investigate the proposed charge, and PFC Wylde was given the full rights advisement relating to the proposed additional charge.

While questioning SgtMaj Fliegel, defense counsel suggested that the possession of metal knuckles was not prejudicial to good order and discipline because it is common for Marines to carry knives and other objects that pose a similar or greater threat. Trial counsel countered on redirect by pointing out that knives generally have multiple legitimate purposes in addition to posing a threat to others, which distinguishes such objects from metal knuckles. Trial counsel also emphasized that the Nevada law prohibiting metal knuckles (included as IE 17), while not binding, was also evidence that possessing these weapons is prejudicial to good order and discipline. Based on SgtMaj Fliegel’s testimony, I find that there is probable cause to believe that possession of metal knuckles is prejudicial to good order and discipline and recommend this charge be preferred and forwarded to a General Court-Martial.



**d. Proposed Additional Charge- Violation of UCMJ, Article 107 (IE 24):**

Investigator Whaley testified that PFC Wylde claimed in his interview that he had used Spice in order to help himself quit smoking. Trial counsel then asked that a new proposed additional charge be considered as part of the Article 32 Investigation. Trial counsel drafted a proposed additional charge under Article 107, UCMJ, and provided a copy to PFC Wylde and defense counsel. PFC Wylde and his counsel were given time to review the proposed additional charge and request additional witnesses, evidence or a continuance based on the additional charge. After defense counsel and PFC Wylde indicated they understood the additional proposed charge and wished to proceed, PFC Wylde's rights were fully reviewed with him on the record with respect to the new proposed charge.

PFC Wylde's assertion that he was using Spice in order to help quit smoking is dubious at best. However, the burden of proof is not on the defendant to prove his innocence but rather on the government to prove guilt. To obtain a conviction at trial on this proposed charge, the government would have to *prove* that PFC Wylde lied about something that only he knows—whether or not one of what could be multiple reasons why he was using Spice was that he thought it would help him stop smoking. As defense counsel noted, even if he used Spice primarily for its intoxicating effects, that does not necessarily negate the possibility that an additional reason was that he thought it might help him stop smoking. Absent some type of admission by PFC Wylde that he lied about this fact, which was not presented at the Article 32 hearing, there are not reasonable grounds to support this allegation. Consequently, I recommend that no further action be taken with regard to this proposed charge.

**e. Objections & Evidentiary Considerations:**

As Investigating Officer, I granted two continuances at the request of defense counsel. Those continuance requests are included in Investigative Exhibit 5 and specify that all delay shall be considered excludable under R.C.M. 707 and Article 10, UCMJ.

Counsel for both the government and the defense made oral comments on the evidence at the end of the Article 32 hearing. Both sides also submitted written comments on the evidence, which are included as Investigative Exhibit 25.

Counsel were instructed to submit all objections in writing no later than 1630 on Tuesday, 15 June. As no objections were received prior to, or after that date, none were considered.

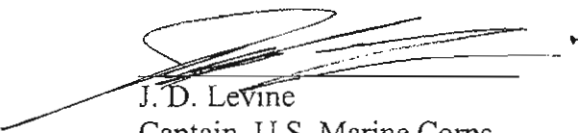
During the proceedings, defense counsel raised various evidentiary concerns, focusing on the availability of notes taken by CID investigators and the legality of the initial search of PFC Wylde's room. With respect to the investigation notes, some were provided by MA1 Williams during the Article 32 proceeding and are included as Investigative Exhibit 23. Other notes, to the extent they exist, I anticipate will be the subject of future discovery disputes and are properly handled as matters for pre-trial motions.

I also anticipate the defense will challenge the search of PFC Wylde's room, to include his backpack, arguing that the initial search was improper under the Fourth Amendment. If

successful, the defense may be able to suppress some or all of the physical evidence recovered from his room. However, the government will be able to argue that the initial search falls under the exigent circumstances exception to the general rule requiring a warrant. Exigent circumstances arise when law enforcement officers have reasonable grounds to believe that there is an immediate need to protect their lives, the lives of others, their property, or that of others; the search is not motivated by an intent to arrest and seize evidence; and there is some reasonable basis, to associate an emergency with the area or place to be searched. This matter is most properly handled during pre-trial motions, but based on the evidence available at the Article 32 hearing, I feel that it is likely that the initial warrantless search will fall under this exception. Nevertheless, additional evidence regarding the motivations of those participating in the initial search may significantly affect how the search is characterized. Regardless of the outcome on this issue, PFC Wylde's sworn confession and the sworn statements and testimony of LCpl Wiley and LCpl Logsdon still provide strong evidence in support of the majority of the government's allegations.

**f. Recommended Forum:**

Defense counsel argues at length in both oral and written comments on the evidence, that a special court-martial is the appropriate forum, if any, to dispose of this case. The focus of defense counsel's argument is that Spice is a legal substance for civilians and that subjecting LCpl Wylde to a potential felony conviction based on actions that would otherwise be legal is unjust. While I find there is some merit to defense counsel's argument, I recommend that you refer the charges specified above to a General Court-Martial. The mere fact that conduct is prohibited in the military alone does not necessarily diminish the seriousness of the offense. As trial counsel noted in his closing comments, some of the most serious crimes in the UCMJ find no counter-part in civilian law. This is primarily due to the fact that the unique nature of military service requires the utmost trust and confidence to be placed in one's fellow servicemembers. There is significant evidence in this case to indicate that LCpl Wylde, in a very calculated manner, and over a long period of time, decided to produce, use, and distribute, a banned substance intended to create intoxicating effects similar to marijuana. There is also little doubt that this substance poses a significant hazard. The condition of LCpl Wiley on 4 May 2010 is obvious proof. The fact that LCpl Wiley recovered later that day does not diminish the fact that he was initially found lying on a bed of rocks convulsing while his lips turned blue and he foamed at the mouth. The seriousness of the charged conduct is only made more evident by the fact that it involves manufacturing, and then using and distributing Spice to Marines charged with maintaining aircraft. If proved beyond a reasonable doubt at trial, such conduct represents a significant breach of the trust shared by fellow servicemembers. For this reason, referral of this case to a General Court-Martial is justified.

  
J. D. Levine  
Captain, U.S. Marine Corps  
Investigating Officer

25 June 2010  
Date

MILITARY SUSPECT'S ACKNOWLEDGEMENT AND CLEANSING WAIVER OF RIGHTS

Place: Criminal Investigations Division

Building 427, RM 213 NAS Fallon, Nevada

I, AARON VICTOR WYLDE/VMFA-323/LCPL/USMC/521-71-0964

have been advised by INVESTIGATOR WHALEY

that I am suspected of POSSESSION, DISTRIBUTION AND WRONGFUL USE OF A CONTROLLED SUBSTANCE

I have also been advised that:

AVW (1) Any prior illegal admissions or other improperly obtained evidence which incriminated me cannot be used against me in a trial by court-martial; AVW

AVW (2) I have the right to remain silent and make no statement at all; AVW

AVW (3) Any statement I do make can be used against me in a trial by court-martial or other judicial or administrative proceeding; AVW

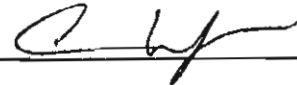
AVW (4) I have the right to consult with a lawyer prior to any questioning. This lawyer may be a civilian lawyer retained by me at no cost to the United States, a military lawyer appointed to act as my counsel at no cost to me, or both; AVW

AVW (5) I have the right to have my retained civilian lawyer and/or appointed military lawyer present during this interview; and AVW

AVW (6) I may terminate this interview at any time, for any reason. AVW

AVW I understand my rights as related to me and as set forth above. With that understanding, I have decided that I do not desire to remain silent, consult with a retained or appointed lawyer, or have a lawyer present at this time. I make this decision freely and voluntarily. No threats or promises have been made to me. AVW

Signature: \_\_\_\_\_

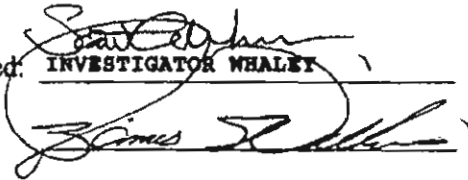


Date & Time: \_\_\_\_\_

05/04/2010 1344

Witnessed: \_\_\_\_\_

INVESTIGATOR WHALEY



At this time, I AARON VICTOR WYLDE/VMFA-323/LCPL/USMC/521-71-0964, desire to make the following voluntary statement. This statement is made with an understanding of my rights as set forth above. It is made with no threats or promises having been extended to me.

ENCLOSURE (2)

COMMANDER NAVY REGION SOUTHWEST  
CRIMINAL INVESTIGATIONS DIVISION  
VOLUNTARY STATEMENT

Place: CNRSW CID DET FALLON BLDG 427 RM 215

Date: 04MAY10

AVW I, WYLDE, AARON VICTOR make the following statement to Investigator WHALEY, whom I know to be an Investigator of Commander Navy Region Southwest, Criminal Investigations Division. I make this statement of my own free will and without any threats made to me or promises extended. I fully understand that this statement is given concerning my knowledge of POSSESSION, DISTRIBUTION AND WRONGFUL USE OF A CONTROLLED SUBSTANCE. AVW

AVW For the purpose of identification, I am a 21-year-old WHITE MALE. My date of birth is 17MAR89, and my place of birth is DENVER, CO. My social security number is 521-71-0964. I am currently employed by VMFA-323. I am a LCPL. AVW

AVW On July 2009, I got back to San Diego from a deployment on the U.S.S. John C Stennis. In August, I was introduced to spice from a buddy of mine. A month or so later I was at a smoke shop in San Diego talking to the worker that said if I could find out how to make it, he would buy it from me for sale in his smoke shop and my money problems would go away. I spent the next few months online researching damiana, and how to do it, and in November of 2009 I had ordered 3 kilos of damiana and made my first batch. I went on to make 2 more batches after that, and I sold the 3<sup>rd</sup> and only successful batch to the smoke shop. At around that time, I also was smoking spice on a regular basis, along with 2-3 other marines from VMFA-323. I did take about 100 grams from Mira Mar with me to Fallon, Nevada on a C5 for personal use. AVW

Q: Who was the buddy that introduced you to spice?

AVW A: I don't want to answer that question. AVW

Q: Who is the individual that works in the smoke shop?

AVW A: Norm, on friars road in San Deigo. AVW

Q: What did you do with the first two batches of spice that you made?

AVW A: I just ended up smoking it. AVW

Q: How much spice did the third batch consist of?

AVW A: 3 Kilos. AVW

Q: How much did you earn from the 3<sup>rd</sup> batch of spice?

AVW A: I earned \$2400.00. AVW

Q: Why did you decide to start selling spice to the smoke shop?

AVW A: Cause I was having financial issues. AVW

Q: Did you have spice in your possession when you were picked up by the MP's today?

AVW A: Yes. AVW

Page 1 of 2  
FOR OFFICIAL USE ONLY

WARNING  
THIS DOCUMENT IS THE PROPERTY OF THE COMMANDER NAVY REGION SOUTHWEST CRIMINAL INVESTIGATION DIVISION. CONTENTS MAY BE DISCLOSED ONLY TO PERSONS WHOSE OFFICIAL DUTY REQUIRES ACCESS THERETO. CONTENTS MAY NOT BE DISCLOSED TO THE PRESS OR CONCERNED WITHOUT SPECIFIC AUTHORIZATION FROM THE NAVY CRIMINAL INVESTIGATIONS DIVISION

COMMANDER NAVY REGION SOUTHWEST  
CRIMINAL INVESTIGATIONS DIVISION  
VOLUNTARY STATEMENT

Q: Did you start making spice in order to sell it to the smoke shop?

AVW A: Yes. AVW

Q: Who are the other Marines that you would smoke spice with in VMFA-323?

AVW A: LCPL Wiley, but I don't want to give any other names. 5

Q: What are the ingredients you use to make spice? AVW 5

AVW A: Damiana, JWH-073, Acetone. AVW

Q: When was the last time you smoked spice?

AVW A: Approximately 1700 yesterday outside my room at the barracks. AVW

Q: Did you know spice was prohibited for use/possession by military members?

AVW A: Yes. AVW

Q: Is there anything else you would like to add to your statement at this time?

AVW A: No. AVW

AVW I have read over this 2 page statement, which contains information/facts I have voluntarily provided to Investigator WHALEY. I have initialed corrections and made changes I desire. This statement is true and correct to the best of my knowledge and recollection. AVW


  
WYLDE, AARON VICTOR

Date: 04MAY10

Time: 1626

Subscribed and sworn to before me this 04 day of MAY, <sup>2010</sup>~~2101~~, at <sup>AVW</sup> CNRSW CID DET FALLON, NV.

  
Investigator WHALEY, Scott A.  
Criminal Investigations Division

  
Investigator WILLIAMS, James C.  
Criminal Investigations Division

DEPARTMENT OF THE NAVY

MILITARY SUSPECT'S ACKNOWLEDGEMENT AND CLEANSING WAIVER OF RIGHTS

Place: Criminal Investigations Division

Building 427, RM 213 NAS Fallon, Nevada

I, MICHAEL DUFF WILEY/VMFA-323/LCPL/USMC/595-92-9201

have been advised by INVESTIGATOR WHALEY

that I am suspected of WRONGFUL USE OF A CONTROLLED SUBSTANCE

I have also been advised that:

MW (1) Any prior illegal admissions or other improperly obtained evidence which incriminated me cannot be used against me in a trial by court-martial; MW

MW (2) I have the right to remain silent and make no statement at all; MW

MW (3) Any statement I do make can be used against me in a trial by court-martial or other judicial or administrative proceeding; MW

MW (4) I have the right to consult with a lawyer prior to any questioning. This lawyer may be a civilian lawyer retained by me at no cost to the United States, a military lawyer appointed to act as my counsel at no cost to me, or both; MW

MW (5) I have the right to have my retained civilian lawyer and/or appointed military lawyer present during this interview; and MW

MW (6) I may terminate this interview at any time, for any reason. MW

MW I understand my rights as related to me and as set forth above. With that understanding, I have decided that I do not desire to remain silent, consult with a retained or appointed lawyer, or have a lawyer present at this time. I make this decision freely and voluntarily. No threats or promises have been made to me. MW

Signature: Michael Wiley

Date & Time: 04 May 2010 19:06

Witnessed: INVESTIGATOR WHALEY

At this time, I MICHAEL DUFF WILEY/VMFA-323/LCPL/USMC/595-92-9201, desire to make the following voluntary statement. This statement is made with an understanding of my rights as set forth above. It is made with no threats or promises having been extended to me.

ENCLOSURE 3

COMMANDER NAVY REGION SOUTHWEST  
CRIMINAL INVESTIGATIONS DIVISION  
VOLUNTARY STATEMENT

Place: CNRSW CID DET FALLON BLDG 427 RM 215

Date: 04MAY2010

MW, WILEY, MICHAEL DUFF make the following statement to Investigator WHALEY, whom I know to be an Investigator of Commander Navy Region Southwest, Criminal Investigations Division. I make this statement of my own free will and without any threats made to me or promises extended. I fully understand that this statement is given concerning my knowledge of WRONGFUL USE OF A CONTROLLED SUBSTANCE. MW

MW For the purpose of identification, I am a 20-year-old WHITE MALE. My date of birth is 24JAN90, and my place of birth is WINTERHAVEN, FL. My social security number is 595-92-9201. I am currently employed by VMFA-323. I am a LCPL. MW

MW I got up to go to a pits class around 7 this morning after it was over which was about 930. I went back to my room and when I arrived my roommate offered me a bowl of spice. We smoked it and then I went outside to get some air in my boxers and t-shirt. I can't remember much after that except that I was crawling through a rocky area and then passing out. I guess this is what I did cause then it was just like riding a roller coaster. MW

Q: What is your roommates name that offered you the spice?

MWA: Wylde. MW

Q: How much spice did you smoke?

MWA: One bowl. MW

Q: Who owns the bowl that you were smoking from?

MWA: Wylde. MW

Q: Have you ever smoked spice before?

MWA: Yes MW

Q: How many times have you smoked spice before?

MWA: 20 times, maybe. MW

Q: Has anything like this ever happened to you before after smoking spice?

MWA: No MW

Q: What normally happens?

MWA: It just makes my worries go away. It like a high and it gives me a head change. MW

Q: Did you know Wylde was bringing spice with him on the flight to Fallon, NV?

MWA: I didn't know for sure, but he had said something about it. MW

Q: Have you seen Wylde sell spice?

MWA: Yes. MW

Q: Who did you see him sell it to?

MWA: That Logsdon kid. MW

Q: Have you seen or heard of Wylde selling to anyone else?

Page - 1 of 2 -  
FOR OFFICIAL USE ONLY

WARNING  
THIS DOCUMENT IS THE PROPERTY OF THE COMMANDER NAVY REGION SOUTHWEST CRIMINAL INVESTIGATIONS DIVISION. CONTENTS MAY BE DISCLOSED ONLY TO PERSONS WHOSE OFFICIAL DUTIES REQUIRE ACCESS HERETO. CONTENTS MAY NOT BE DISCLOSED TO THE PARTY(IES) CONCERNED WITHOUT SPECIFIC AUTHORIZATION FROM THE NAVY CRIMINAL INVESTIGATIONS DIVISION.

COMMANDER NAVY REGION SOUTHWEST  
CRIMINAL INVESTIGATIONS DIVISION  
VOLUNTARY STATEMENT

MWA: I have seen people coming to his room before, but I was never in the room. I just assumed that he was selling to them. MW

Q: Have you ever purchased spice from Wylde?

MWA: Yes. MW

Q: How many times have you purchased spice for Wylde?

MWA: Three times. MW

Q: How much did you purchase each time?

MWA: The first time I purchased spice from Wylde I got \$60.00 worth. The next two times I got \$40.00 worth. MW

Q: How long have you been smoking spice?

MWA: About 7-8 months. MW

Q: Did your command brief you on the policy regarding spice?

MWA: Yes. MW

Q: Do you have anything else that you would like to add to your statement?

MWA: No, but I'm not ever going to do this stuff again. MW

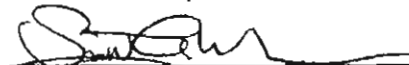
MWA have read over this 2 page statement, which contains information/facts I have voluntarily provided to Investigator WHALEY. I have initialed corrections and made changes I desire. This statement is true and correct to the best of my knowledge and recollection. MW


  
WILEY, MICHAEL DUFF

Date: 04MAY2010

Time: 1906

Subscribed and sworn to before me this 4TH day of MAY, 2010, at CNRSW CID DET FALLON, NV.

  
Investigator WHALEY  
Criminal Investigations Division

  
Investigator WILLIAMS  
Criminal Investigations Division



**VOLUNTARY STATEMENT**

1. PLACE: CENTER COURT LOUNGE  
NAVY AIR STATION, FALLON NEVADA

2. DATE: 04 MAY 10 TIME: 1038

LEI, ERNST, LAKRISHA, A CIV DEL-JEN 9942, make the following free and voluntary statement to EDWARDS, LYLE S MAZ NAVY 9344 whom I know to be PAROLMAN with NAS Fallon Security Department.

I make this statement of my own free will and without any threats or promises extended to me. I fully understand that this statement is given concerning my knowledge of MEDICAL EMERGENCY LE

LE I am assigned to DEL-JEN in the CUSTODIAN division. My work extension is                     . I live at 410 RUTAIL DR FALLON, NV 89406, phone (775) 427 4501. My social security number is 530-19-9942 LE

EAT APPROXIMATELY 9:35 AM ON MAY 4<sup>TH</sup> 2010 I WAS EMPTYING THE TRASH UNDER THE STAIRWELL WHEN I LOOKED UP THIS GUY WAS LAUGHING THEN HE JUMPED OVER THE STAIRWELL I JUMPED BACK AND ASKED HIM IF HE WAS OK HE JUST LAUGHED RAN UNDER THE STAIRWELL AND KEPT RUNNING THROUGH THE ROCKS TOWARDS BILLETING HE WAS WEARING A BROWN T-SHIRT, BOXERS, AND NO SHOES. ALL THIS TOOK PLACE ON THE WEST SIDE OF BUILDING 475. LE

*END OF STATEMENT*  
*Lakisha Ernst*

LE The above statement consists of 1 page(s), handwritten by ERNST, LAKRISHA in the presence of MAZ (EM) EDWARDS, LYLE as we discussed its contents. I have read this statement and it is true and complete to best of my knowledge. LE

Subscribed and sworn to before me at Naval Air Station Fallon, Nevada on Date: 04 MAY 10 at Time: 10:47

Lyle Edwards

Lakisha Ernst  
Date: May 4<sup>th</sup> 10 at Time: 10:46 AM

COMMANDER, NAVY REGION SOUTHWEST  
CRIMINAL INVESTIGATIONS DIVISION

FOR OFFICIAL USE ONLY

INVESTIGATIVE ACTION

11May10

NARCOTICS (II)

CONTROL: 104625500102

S/WILEY, MICHAEL DUFF/LCPL USMC

M/W/MEE3/U/595-92-9201/24JAN90/WINTERHAVEN, FL

RESULTS OF COMMAND AUTHORIZED SEARCH OF LIVING QUARTERS

1. On 04May10, security and medical units responded after being notified that S/WILEY was unconscious and foaming from the mouth in the rocks by Building 308. Patrol Officer's RUIZ, Manuel, MA2, USN, EDWARDS, Lyle, MA2, USN and Fire Chief MELLOTT, Lewis, Civ, conducted an exigency search of S/WILEY's living quarters; located at Building 475, Room 6483, Carlin Barracks, NAS Fallon, NV. During the search a pair of brass knuckles and a small plastic bag containing an unknown green leafy substance was discovered during the search. As a result, a Command Authorization for Search and Seizure was obtained from Michael H. GLASER, CAPT, USN, Commanding Officer, NAS Fallon. The search, which began at 1031, was conducted by Reporting Investigator (RI), and Investigator Scott A. WHALEY and ended at 1150. Enclosures (2A) and (2B) pertain.

2. The following items were seized, photographed, marked for identification, and turned over to the Consolidated Evidence Facility under Log Numbers 009-10, 010-10, 011-10 and 012-10. Enclosure (2C) pertains.

Time	Item	Description
1045	A	72 United States twenty dollar bills, seized from backpack on the bed.
1046	B	1 United States one hundred dollar bill, seized from backpack on bed.
1048	C	White in color, glass type construction

Page 1 of 3

FOR OFFICIAL USE ONLY

WARNING

THIS DOCUMENT IS THE PROPERTY OF THE COMMANDER NAVY REGION SOUTHWEST CRIMINAL INVESTIGATIONS DIVISION. CONTENTS MAY BE DISCLOSED ONLY TO PERSONS WHOSE OFFICIAL DUTIES REQUIRE ACCESS HERETO. CONTENTS MAY NOT BE DISCLOSED TO THE PARTY(S) CONCERNED WITHOUT SPECIFIC AUTHORIZATION FROM THE NAVY CRIMINAL INVESTIGATIONS DIVISION.

ENCLOSURE (5)

COMMANDER, NAVY REGION SOUTHWEST  
CRIMINAL INVESTIGATIONS DIVISION

FOR OFFICIAL USE ONLY

- imitation cigarette smoking pipe, seized from top of bed.
- 1049 D Clear plastic bag with a red horizontal line above the seal containing a ¼ inch of green leafy substance, seized from top of notebook on the bed.
- 1051 E Yellow, white, green and black in color, plastic/paper type construction bound college rule notebook, seized from top of bed.
- 1054 F Roll of 36 clear plastic bags with a red Horizontal line above the seal held together by a red in color rubber band, seized from backpack on the bed.
- 1111 G Multicolored glass type construction pipe/ bowl containing ash residue wrapped in a white, black and red hanker chief, seized for top of bed.
- 1128 H Black in color, metal type construction, spike tipped set of brass knuckles, seized from top of bed.
- 1129 I Large clear plastic zip lock type bag containing an unknown green leafy substance, seized from laptop bag on floor beside the bed.
- 1131 J Black in color Toshiba Satellite L505 laptop, Serial Number Z9143558Q, in a black in color, cloth type Targus case, seized from floor beside the bed.

WARNING

THIS DOCUMENT IS THE PROPERTY OF THE COMMANDER NAVY REGION SOUTHWEST CRIMINAL INVESTIGATIONS DIVISION. CONTENTS MAY BE DISCLOSED ONLY TO PERSONS WHOSE OFFICIAL DUTIES REQUIRE ACCESS HERETO. CONTENTS MAY NOT BE DISCLOSED TO THE PARTY(S) CONCERNED WITHOUT SPECIFIC AUTHORIZATION FROM THE NAVY CRIMINAL INVESTIGATIONS DIVISION.

COMMANDER, NAVY REGION SOUTHWEST  
CRIMINAL INVESTIGATIONS DIVISION

**FOR OFFICIAL USE ONLY**

ENCLOSURE(S)

- (2A) Command Authorization for Search and Seizure/04May10
- (2B) Affidavit for Search Authorization S/WILEY/04May10
- (2C) Twenty four (24) photographs of evidence seized from  
Building 475, Room 6483, assigned to S/WILEY/04May10

Reported by: James C. WILLIAMS, Investigator  
Office: FLCID NAS Fallon, NV

**WARNING**

THIS DOCUMENT IS THE PROPERTY OF THE COMMANDER NAVY REGION SOUTHWEST CRIMINAL INVESTIGATIONS DIVISION. CONTENTS MAY BE DISCLOSED ONLY TO PERSONS WHOSE OFFICIAL DUTIES REQUIRE ACCESS HERETO. CONTENTS MAY NOT BE DISCLOSED TO THE PARTY(S) CONCERNED WITHOUT SPECIFIC AUTHORIZATION FROM THE NAVY CRIMINAL INVESTIGATIONS DIVISION.

# COMMAND AUTHORIZATION FOR SEARCH AND SEIZURE

UNITED STATES OF AMERICA

VS.

MICHAEL DUFF WILEY

To Investigator James WILLIAMS, NAS Fallon, Criminal Investigations Division

Affidavit(s) having been made before me by

Investigator James WILLIAMS

That there is reason to believe that on the person of and/or on the premises known as:  
(Identify the person and/or describe the premises with particularity and in detail)

Barracks room #6483 in Carlin building #475, and the closets, drawers or other areas where drugs may be hidden.

There is now being concealed certain property, namely: which is/are under my jurisdiction,  
Here describe the property


Evidence of use, possession, etc. of a controlled substance.

I am satisfied that there is probable cause to believe that the property so described is being concealed on the person and/or premises above described and that grounds for application for issuance of a command authorized search exists as stated in the supporting affidavit(s).

YOU ARE HEREBY AUTHORIZED TO SEARCH the person and/or place named for the property specified and if the property is found there to seize it, leaving a copy of this authorization and receipt for the property taken. You will provide a signed receipt to this command, containing a full description of every item seized.

Any assistance desired in conducting this search will be furnished by this command.

Date this 4th day of MAY 2010

  
\_\_\_\_\_  
Signature of Person Authorizing Search  
CAPT, USN, Commanding Officer  
\_\_\_\_\_  
Rank, Service, Title

NAS FALLON  
\_\_\_\_\_  
Command

**AFFIDAVIT FOR SEARCH AUTHORIZATION**

UNITED STATES OF AMERICA

VS.

**MICHAEL DUFF WILEY**

Before the Commanding Officer, NAS Fallon, NV  
*(Identify person by title and command)*

**The undersigned, being duly sworn, requests authority to search:**  
*(Identify the person and/or describe the premises with particularity and in detail)*

Barracks room #6483 of Carlin building #475, the closet, and any drawers or other spaces where drugs may be hidden in the room.

**Believing that there is now being concealed certain property, namely:**  
*(Here describe the property)*

A controlled substance.

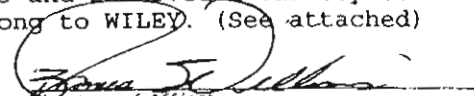
**The request of authorization to search and seize is made in connection with an investigation into the offense(s) of:**

Violation of UCMJ Article 112a, wrongful use, possession, etc of a controlled substance.

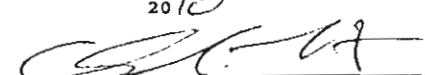
**The facts and circumstances known to me tending to establish the foregoing grounds for authorization to search and seize, including comments demonstrating the reliability of the information and/or informant, are as follows:**

*(Attach separate, sworn affidavit if more space needed)*

On 4 May 2010, Medical/fire and security units responded to a unconscious male lying on the ground foaming from the mouth in the rocks between building 308 and building 380. The subject was identified as Michael WILEY and Stillwater Inn provided a room key for an emergency search for medication that may be needed or may have caused his condition. Patrolmen and Fire Chief entered room #6483 of building #475 and observed a variety of over the counter medications and a backpack believed to belong to WILEY. (See attached)

  
Signature of Affiant

Sworn to before me, and subscribed in my presence, this 4<sup>th</sup> day of May 2010

  
Signature of Person Administering Oath

LCDR, JAGC, USN  
Rank, Service, Title

A clear plastic bag containing an unknown green leafy substance was discovered and a set of brass knuckles. The Unknown green leafy substance is believed to be a controlled substance known to be Salvia/Spice .