

UNITED STATES ARMY TRIAL JUDICIARY

FOURTH JUDICIAL CIRCUIT

UNITED STATES )

v. )

SALEH, Gary W. )

SPC, U.S. Army )

S&T Troop, RSS )

11<sup>th</sup> Armored Cavalry Regiment )

Fort Irwin, California 92310 )

STIPULATION OF FACT

25 AUGUST 2011

**INTRODUCTION**

It is hereby stipulated by and between the Government and the Defense, with the express consent of the Accused:

1. The following facts are true, susceptible of proof, and are admissible without regard to any evidentiary rule or Rule for Courts-Martial that might otherwise make them inadmissible.
2. The following facts, may be considered by the fact finding authority with regard to guilt or innocence concerning the charged offenses, may be considered by the sentencing authority in determining an appropriate sentence even if otherwise inadmissible, and may be considered by the convening authority and any appellate authority at any time during the proceedings, the post-trial, or the appellate process.
3. The Accused and the Government waive any objection they may have to the admission into evidence of the following facts.
4. The Accused enters into this Stipulation voluntarily.

**FACTS**

5. The following individuals were assigned the following corresponding telephone numbers during the period 1 July 2010 through 26 August 2010:

- a. SPC Gary Saleh – (760) 605-2359
- b. SSG Zahra Jakane – (808) 285-9891
- c. Ms. Houda Chaji – (404) 453-6760
- d. SPC Khalid Belkhatir – (404) 227-9568
- e. SPC Mohammed Chahti – (210) 454-8400

f. Ms. Mardi Alsamarai – Cell: (253) 508-0705; Home: (760) 386-1116

6. The Accused's semen was found by a USACIL examiner on Ms. Chaji's tinkerbell pants and underwear.

7. Two of the Accused's fingerprints were found by a USACIL examiner on the mirror listed as item #1 on DA Form 4137, Evidence/Property Custody Document # 097-10.

### EVIDENCE

8. The Government and the Accused agree that the following documents and objects are relevant and admissible into evidence without objection or regard to establishing any other foundational requirements:

- a. Sprint Cell Phone Call Records for PTN 4044536760; 1 July 2010- 26 August 2010
- b. DA Form 4137, Evidence/Property Custody Document # 098-10 (Clothing, Bedding & Knives from 5319-B Cottontail Lane)
- c. DA Form 4137, Evidence/Property Custody Document # 097-10 (Glass Mirrors from 5319-B Cottontail Lane)
- d. DA Form 4137, Evidence/Property Custody Document # 096-10 (Buccal Swabs from Ms. Chaji)
- e. DA Form 4137, Evidence/Property Custody Document # 099-10 (Buccal Swabs from SPC Saleh)
- f. USACIL DNA Branch Final Report, dated 9 November 2010
- g. USACIL Latent Print Branch Final Report, dated 29 October 2010
- h. Sworn Statement of SPC Gary Saleh, dated 25 August 2010
- i. The mirror listed as item #1 on DA Form 4137, Evidence/Property Custody Document # 097-10
- j. The knife listed as item #6 on DA Form 4137, Evidence/Property Custody Document # 098-10
- k. The knife listed as item #7 on DA Form 4137, Evidence/Property Custody Document # 098-10.

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GARY W. SALEH  
SPC, USA  
Accused

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LAQUISHA DOUGLAS  
CPT, JA  
Defense Counsel

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MATTHEW E. WRIGHT  
CPT, JA  
Trial Counsel

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HAYTHAM FARAJ  
Civilian Defense Counsel