



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 7TH BOMB WING (ACC)
DYESS AIR FORCE BASE TEXAS 79607

5 July 2011

MEMORANDUM FOR DEFENSE COUNSEL

FROM: TRIAL COUNSEL

SUBJECT: Discovery Request - United States v. 1st Lt Patrick T. Burke

1. Pursuant to R.C.M. 701 and applicable case law, the prosecution requests that the defense provide the following information concerning the above case:

a. Access to and permission to inspect books, papers, documents, photographs, tangible objects, or any copies thereof, within the possession or control of the defense and which the defense intends to introduce as evidence at trial. R.C.M. 701(b)(3).

b. Copies of any results or reports of physical or mental examination and of scientific tests or experiments made in connection with this case which are within the possession or control of the defense and which the defense intends to introduce as evidence or which were prepared by a witness whom the defense intends to call at trial. R.C.M. 701(b)(4).

c. The names, addresses, and phone numbers (home and duty or work phone numbers), of any and all witnesses the defense intends to call at trial during the defense case-in-chief. This request includes, but is not limited to, all sworn or unsworn statements made by any such witness. R.C.M. 701(b)(1)(A).

d. The names, addresses, and phone numbers (home and duty or work phone numbers), of any and all witnesses, other than the accused, the defense intends to call during the presentencing portion of the trial. This request includes, but is not limited to, all sworn or unsworn statements made by any such witness. R.C.M. 701(b)(1)(B)(i).

e. Access to and copies of any and all written material the defense intends to introduce into evidence during the presentencing portion of the trial. R.C.M. 701(b)(1)(B)(ii).

f. Notice of the defense's intention to rely upon the defense of alibi. R.C.M. 701(b)(2). This request includes, but is not limited to, notification of the place or places the defense claims the accused to have been at the time of the alleged offense and the names, addresses, and phone numbers of any and all witnesses upon which the defense intends to rely to establish such a defense.

g. Notice of the defense's intention to rely upon the defense of lack of mental responsibility and the defense's intention to introduce expert testimony concerning the accused's mental condition. R.C.M. 701(b)(2). This request includes, the names, addresses, and phone numbers of any and all expert witnesses upon which the defense intends to rely to establish such a defense. To the extent the defense intends to rely upon this defense and offer expert testimony concerning the mental condition of the accused, this request includes disclosure of the full contents of any report

prepared pursuant to R.C.M. 706. Mil. R. Evid. 302(c). To the extent the defense intends to rely upon this defense, this request includes notice of intent to offer any statements made by the accused during such an examination and copies thereof. Mil. R. Evid. 302(c).

- h. Whether the defense intends to seek judicial notice of any matter at trial.
 - i. Copies of any document or writing used by any witness, other than the accused, to prepare for trial.
 - j. A written list of all exhibits, to include documents and tangible items, the defense intends to introduce at trial, during findings or sentencing.
 - k. Notice of and copies of any and all motions within the appropriate time prior to trial.
 - l. Disclosure of any evidence which, may tend to diminish the credibility of any witness or potential witness. This request includes, but is not limited to, prior civilian or military convictions (Mil. R. Evid. 609(b)), evidence of prior Article 15 punishment or other adverse administrative action, evidence of any prior inconsistent statements (Mil. R. Evid. 613(a)), and any other evidence concerning the character, conduct, or bias which may bear upon the witnesses credibility.
 - m. Notice of intent to offer at trial any residual hearsay. Mil. R. Evid. 803(24) and Mil. R. Evid. 804(b)(5).
 - n. Notice of intent to disclose at trial any classified information (Mil. R. Evid. 505) or any unclassified information (Mil. R. Evid. 506).
 - o. Notice of any and all motions to be raised at trial. This request includes the provision of the name, address, and telephone numbers of all witnesses to be called at trial on any motion.
 - p. Notice of intended pleas and request for trial by military judge alone or trial by members.
 - r. Verification of the accuracy of the data on the Charge Sheet as well as a listing of the awards and decorations of the accused
2. This is a continuing request and, as a result, the defense is required to disclose any additional information or evidence covered by this request which becomes known to the defense at any time prior to the end of the trial. R.C.M. 701(d).
3. The prosecution requests that the defense comply at the earliest possible opportunity. If the defense does not intend to comply with any provision of this request, the prosecution requests immediate notification of such an intention and the basis therefore.



DUSTIN B. KOUBA, Capt, USAF
Trial Counsel

Certificate of Service

I hereby certify that on 5 July 2011, I emailed a copy of this Government Discovery Request in the case of United States v. 1st Lt Patrick T. Burke to the Defense.



DUSTIN B. KOUBA, Capt, USAF
Trial Counsel