



UNITED STATES MARINE CORPS
 MARINE CORPS RECRUIT DEPOT/WESTERN RECRUITING REGION
 1600 HENDERSON AVENUE, SUITE 238
 SAN DIEGO, CALIFORNIA 92140-5001

IN REPLY REFER TO:
 5814
 SJA

29 APR 2010

SPECIAL COURT-MARTIAL ORDER
 AND ACTION NUMBER.....13-10

Before a special court-martial which convened at Marine Corps Recruit Depot San Diego, California, on 15 March 2010, pursuant to the convening order issued by this Headquarters, Serial: #1-09 dtd 14 October 2009, was arraigned and tried:

Staff Sergeant Joshua E. Hawk, XXX XX 8658/5811, U.S. Marine Corps, Support Battalion, Recruit Training Regiment, Marine Corps Recruit Depot, San Diego, California.

On 15 March 2010, the accused was arraigned, elected to be tried by military judge alone, and entered mixed pleas to the Charges and Specifications. The court-martial proceeded to trial on the following offenses with the following findings being reached:

<u>Charges</u>	<u>Pleas</u>	<u>Findings</u>
Charge I: Violation of Article 80, UCMJ	NG	W/D ¹
Specification: Did, at or near San Diego, CA, on or abt 11 Sep 08, attempt to cause Ms. D. Ligon to engage in a sexual act, to wit: sexual intercourse by using strength and power sufficient that she could not avoid or escape the sexual conduct.	NG	W/D ¹
Charge II: Violation of Article 92, UCMJ	G	G
Specification: Who knew of his duties at or near Marine Recruit Depot San Diego, CA, on or abt 11 Sep 08, was derelict in the performance of those duties in that he negligently failed to disclose that he had been arrested and charged for public intoxication, delaying or resisting arrest, and disturbing the peace by the Calipatria Police Dept. on or abt 27 Feb 00, failed to disclose that he had a stepfather, James Joseph Clayton, and failed to list foreign countries he had visited in the previous 7 years, while entering personal information into the Electronic Questionnaire for Investigations Processing system of the United States Office of Personnel Management for a Single Scope Background Investigation request #4426645, as it was his duty to do.	G	G

¹ After arraignment, Trial Counsel made a motion to withdraw and dismiss without prejudice the language, charges, and specifications to which the accused pled not guilty, such dismissal to ripen into a dismissal with prejudice upon the announcement of sentence. Absent objection from the defense, the military judge granted the motion.

Charges (Cont'd)

Pleas Findings

Charge III: Violation of Article 107, UCMJ NG W/D¹

Specification 1: Did, at or near San Diego, CA, on or abt 15 Oct 08, with intent to deceive, make to Special Agent Rick Rendon of the Naval Criminal Investigative Service, an official statement, to wit: That on 11 Sep 08 at MCRD, Ms. E. Argueta (AKA: Amy) told SSgt Hawk, "She might like you." referring to Ms. D. Ligon; Ms. D. Ligon was dancing with the guys behind them at the table; Ms. D. Ligon took SSgt Hawk's right hand and put it on her crotch over her clothes; SSgt Hawk immediately pulled her hand away when she did this; while at the bar, SSgt Hawk and Ms. D. Ligon kissed a couple of times on the mouth in the view of others; Ms. E. Argueta and SSgt Mora knocked on his door while he was watching TV around 2230 and asked him where Ms. D. Ligon was and he said that she was not there; nothing sexual occurred after Ms. D. Ligon told him to stop; SSgt Hawk opened the passenger door on his side while in the SUV with Ms. D. Ligon; and that Ms. D. Ligon lifted her hips to get her pants down beyond her butt, which statements were totally false and was then known by the said SSgt J. Hawk, to be so false.

NG W/D¹

Specification 2: Did, at or near MCRD San Diego, CA on or abt 11 Sep 08, with intent to deceive, make an official statement, by signing his United States Office of Personnel Management Electronic Questionnaires for Investigation Processing (e-QIP) Investigation Request #4426645 thus stating that same document was true, complete, and correct, which statement was false in that said SSgt Hawk failed to disclose that on or abt 27 Feb 00 he was arrested and charged with public intoxication, delaying or resisting an officer, and disturbing the peace, that he had a stepfather, James Joseph Clayton, and was then known by the said SSgt Hawk to be so false.

NG W/D¹

Specification 3: Did, at or near MCRD San Diego, CA on or abt 11 Sep 08, with intent to deceive, make an official statement, to wit: by stating "not applicable" when told to "List foreign countries you have visited, except on travel under official Government orders, working back 7 years" on his United States Office of Personnel Management Electronic Questionnaires for Investigation Processing (e-QIP) Investigation Request #4426645, which statement was totally false, and was then known by the said SSgt Hawk to be so false.

NG W/D¹

Charges (Cont'd) Pleas Findings

Specification 4: Did, at or near MCRD San Diego, on or abt 7 Oct 08, with intent to deceive, make to Special Investigator Claude Carris, Jr. of The Office of Personnel Management Investigations, an official statement, to wit: "On 20 May 08, I was riding on a buggy taxi, alone, around 0200." or words to that effect, "On 16 Aug 03, I went to a restaurant. I started drinking and something happened. I do not know if I said something or someone else said something that was wrong. I went outside to sit on a bench. Michael and Steven Moore came outside. Michael started talking to me and we began to argue over what was said inside. Michael pushed me down and then both Michael and Steven began to kick me. I was knocked unconscious." or words to that effect, and "On 27 Feb 2000, I had not been drinking." or words to that effect, which statements were false, and were then known by the said SSgt Hawk to be so false.

NG W/D¹

Specification 5: Did, at or near MCAS Miramar, CA, on or abt 10 Oct 08, with intent to deceive, make to Special Agent Rick Rendon of Naval Criminal Investigative Service, an official statement, to wit: "Sgt Mahoe told me he had sex with Danielle a few weeks before this incident" or words to that effect. "Danielle took my right hand and put it on her crotch over her clothes" or words to that effect. "I exited the SUV and went to my room while Danielle stated in the SUV" or words to that effect, and "Amy and SSgt Mora knocked on my door while I was watching TV" or words to that effect, which statements were totally false, and were then known by the said SSgt Hawk to be so false.

NG W/D¹

Charge IV: Violation of Article 120, UCMJ NG² G³

Specification: Did, at or near San Diego, CA, on or abt 11 Sep 08, cause Ms. D. Ligon to engage in a sexual act, to wit: having her vagina penetrated with the insertion of his fingers, by causing bodily harm upon her, to wit: pulling the back right side of her hair causing pain and redness and soreness to her scalp and head, gagging her by inserting his fingers into her mouth causing redness and soreness to the inside of her mouth, and by also causing her to obtain scrapes, bruises and abrasions throughout her body she obtained during her struggle and escape from the said SSgt J. Hawk, USMC.

NG² G³

² Not Guilty to Charge IV and the sole specification as stated on the charge sheet, but guilty as listed on Appellate Exhibit IV.
³ Guilty to the lesser included offense of assault consummated by a battery under Article 128 Uniform Code of Military Justice.

<u>Charges (Cont'd)</u>	<u>Pleas</u>	<u>Findings</u>
Charge V: Violation of Article 134, UCMJ	G	G
Specification 1: Was, at or near San Diego, CA, on or abt 11 Sep 08, drunk and disorderly, which conduct was of a nature to bring discredit upon the armed forces.	G	G
Specification 2: Was, at or near 600 5th Avenue San Diego, CA, on or abt 20 May 08, drunk and disorderly, which conduct was of a nature to bring discredit upon the armed forces.	G	G
Additional Charge: Violation of Article 92, UCMJ ⁴	G	G
Specification: Was, at or near MCRD, San Diego, CA, on or abt 7 Oct 08, derelict in the performance of those duties in that he negligently failed to make complete and correct statements and omitted important facts from said statements to an Office of Personnel Management Investigator during a Single Scope Background Investigation interview, which it was his duty to do.	G	G

SENTENCE

The military judge adjudged the following sentence on 15 March 2010:
To be confined for a period of five months and to be reduced to pay grade E-3.

ACTION BY THE CONVENING AUTHORITY

In the special court-martial case of Staff Sergeant Joshua E. Hawk, XXX XX 8658/5811, U.S. Marine Corps, tried on 15 March 2010, at Marine Corps Recruit Depot, San Diego, California, the sentence to reduction to pay grade E-3 and confinement for a period of five months is approved and will be executed.

The accused will be credited zero (0) days confinement against the sentence to confinement.

The Naval Consolidated Confinement Facility, Marine Corps Air Station, Miramar, California, is designated as the place of confinement.

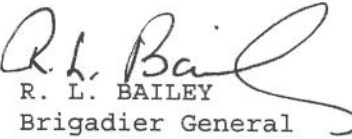
Automatic reduction to the lowest enlisted pay grade shall take effect pursuant to Article 58a, UCMJ, and Section 0152 of the Manual of the Judge Advocate General, (JAGMAN).

The defense was served with a copy of the record of trial on 23 April 2010. On 23 April 2010, the defense indicated in writing that it had no further post-trial matters to submit.

⁴ The Military Judge determined that charge IV and its sole specification was multiplicitious for sentencing with charge V and its specification.

Prior to taking this action, I carefully considered the results of trial, the clemency matters submitted on 2 April 2010 by detailed defense counsel in accordance with Rule for Courts-Martial 1105, MCM, (2008 Ed.), the personnel records of the accused, and the entire record of trial.

Pursuant to Article 64(a), UCMJ, and Rule for Courts-Martial 1112(a)(2), the record of trial is forwarded to the Staff Judge Advocate, Marine Corps Recruit Depot/Western Recruiting Region, San Diego, California, for review by a judge advocate.


R. L. BAILEY
Brigadier General
U.S. Marine Corps
Commanding General

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