

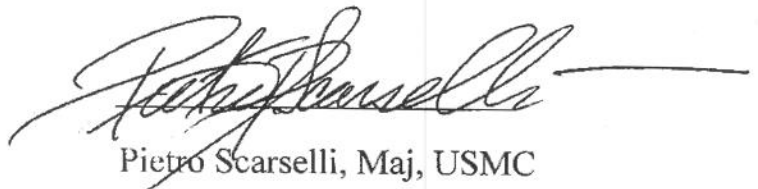
Affidavit of Maj Pietro Scarselli, USMC

1. My name is Maj Pietro Scarselli.
2. I am an accused in a general court martial whose charges were the subject of an Article 34 advice letter drafted by whom I believed to have been an attorney of mine in the past.
3. I received an adverse fitness report from a Col Rickey Grabowski in 2006 when he was my reporting senior.
4. At the time of his report of me, I had been the commanding officer of RS New York. Col Grabowski had been the district commanding officer of 1st Marine Recruiting District.
5. I believe that I received an adverse report from Col Grabowski because my RS was not making mission in 2006 at the levels that Col Grabowski demanded.
6. There were many factual inaccuracies in that fitness report of me, which is why I believe that the Marine Corps ultimately pulled that report.
7. I considered, and still do, these matters of me receiving an adverse fitness report an intensely private and confidential matter. This is not something I talk openly about and am frankly embarrassed to sign this affidavit even.
8. To get that fitness report pulled, I solicited the help of LtCol Rhesa J. Ashbacher who I knew to be a judge advocate.
9. I came to Ltcol Ashbacher for legal advice because I did not want to discuss this private matter with ranks lower than myself, like the judge advocate captains that worked for her.
10. Also, I figured that LtCol Ashbacher, a lawyer of some years; would give me good legal advice and successfully get that fitness report pulled.
11. I called LtCol Ashbacher and asked if she would be willing to assist and guide me in this matter. She agreed and I made an appointment to see her.
12. I told LtCol Ashbacher, I did not feel comfortable asking or sharing my information with anyone junior to me as this was a confidential matter. She acknowledged.
13. LtCol Ashbacher advised me on how to go about getting that fitness report pulled and helped me prepare documents.
14. She educated me on the laws and regulations concerning officer evaluations and appeals processes.

15. I sat down with her in her office on at least two separate occasions. Each time was for 30 minutes or more.
16. We also had many email communications in reference to the preparation of the PERB package: A minimum of six back and forth emails.
17. In addition to the legal advice and expertise I sought and she gave, I also engaged with her in conversation as to how to go about filing an Article 138, complaint of wrong.
18. At all times we were working together, I believed she was giving me legal advice and that everything I told her was strictly confidential because she was an attorney, my attorney for this limited purpose.
19. My fitness report was pulled and I am very grateful for her help. I even called her with the news and I thanked her for her assistance and advice.
20. Then, in early 2010, I was surprised and disappointed when I learned that LtCol Ashbacher in her capacity as SJA wrote an Article 34 advice letter recommending that charges against me go to trial.
21. While I know I am innocent of these charges against me, I felt betrayed to put in bluntly because of the close professional relationship I thought LtCol Ashbacher and I had had and the fact that I had disclosed very personal and confidential information to her as my lawyer.
22. Still, I bit my tongue and did not say anything until I learned that LtCol Ashbacher took the confidential information I had told her regarding Col Grabowski and my adverse fitness report and gave it to Capt Gilinsky, the prosecutor in the case against me.
23. I know that LtCol Ashbacher betrayed my confidences because Capt Gilinsky only recently added Col Grabowski to the witness list of the witnesses he intends to call against me.
24. I am confused and disappointed in her disclosing that information. I believed that because she was my attorney she had to keep that information confidential and could not disclose it to others without my permission.

I swear and affirm that the above is true and correct to the best of my belief, so help me God.

Date: 100729



Pietro Scarselli, Maj, USMC