



**UNITED STATES MARINE CORPS**  
OFFICE OF THE STAFF JUDGE ADVOCATE  
DEFENSE SECTION  
MARINE CORPS RECRUIT DEPOT  
3700 CHOSIN AVENUE  
SAN DIEGO, CALIFORNIA 92140-5197

5800  
DEF  
28 Aug 10

From: Defense Counsel  
To: Commanding General  
Via: (1) Trial Counsel  
(2) Staff Judge Advocate

Subj: REQUEST FOR ORDERS AND FUNDING FOR INTERVIEWS AND SITE  
VISIT IN THE CASE OF UNITED STATES V. CAPT DOUGLAS WACKER, USMC;  
SEATTLE, WASHINGTON and NEW ORLEANS, LA

Ref: (a) R.C.M. 701 (MCM 2008 ed)  
(b) R.C.M. 703 (MCM 2008 ed)

Encl: (1) Previous approval of New Orleans and Seattle Site Visit

1. The defense respectfully requests funding and travel orders for Captain Hur, a defense clerk and the Accused to conduct interviews and a site visit to Seattle, Washington in order to properly prepare a defense for the Accused. The Government has given notice under MRE 413 that it intends to introduce evidence at trial related to the Accused allegedly raping a woman in Seattle, Washington in December 2006 (a Ms. Nicole Cusack). The Defense must have an equal opportunity to refute those false allegations.

2. Per reference (a) "upon the request of the defense, the Government shall permit the defense to inspect" any "buildings, or places . . . which are material to the preparation of the defense . . ." Per reference (b) "[t]he prosecution and defense and the court-martial shall have equal opportunity to obtain witnesses and evidence . . ."

3. In the present case, the defense needs to inspect the site of the alleged rape by the Accused that took place in December 2006 in Seattle against Ms. Cusack. Inspecting the site of the alleged rape is particularly significant as it may discredit the testimony of Capt Wacker's accuser, Ms. Cusack. This site visit will also be used to interview potential witnesses in order to determine their relevance to the merits of these allegations. The defense has already located via telephone a Ms. Amber Davis, who gave exculpatory testimony at the Article 32 hearing for the Accused regarding his evening with Ms. Cusack that forms the basis of her accusations. The defense strongly suspects based on Ms. Davis's testimony that more exculpatory witnesses will be located.

4. Regarding New Orleans, Capt Hur and a former defense clerk (now transferred to the infantry operating forces and deploying early next year) conducted a New Orleans site visit in the Fall of 2009. However, the case against Capt Wacker after that first New Orleans site visit was dismissed after UCI was disclosed. The case has since been preferred anew and the

Subj: REQUEST FOR ORDERS AND FUNDING FOR INTERVIEWS AND SITE  
VISIT IN THE CASE OF UNITED STATES V. CAPT DOUGLAS WACKER, USMC;  
SEATTLE, WASHINGTON and NEW ORLEANS, LA

Government has only recently disclosed additional evidence (emails from Jessica Brooder and DNA evidence) that contradict previous allegations concerning what happened in New Orleans.

5. Therefore, the defense now again requests for Capt Hur, his current legal clerk and Capt Wacker to go to New Orleans to gather evidence in this case. A site visit to New Orleans is needed again in order for the Defense to have ready access for a law clerk to be able to testify (Capt Hur's previous clerk has PCS'd and is no under his control). Further, the Defense needs to go to New Orleans again in another attempt to locate employees of the Royal St. Charles hotel that were working that evening on 4 April 2007. Location of those employees may prove once and for all that Capt Wacker did not sexually assault Ms. Brooder or Ms. Easley as alleged.

6. Enclosure (1) indicates that site visits were already approved earlier in this case for visits to New Orleans and Seattle prior to Unlawful Command Influence being disclosed, which resulted in this case being moved from MCRD San Diego to MCAS Miramar. Capt Wacker's defense should not be prejudiced because of the UCI being uncovered. The previous approvals for site visits should respectfully be reinstated.

7. The defense respectfully requests travel orders for Captain Hur, the Accused and one defense clerk (to take photos and be a witness if necessary) and funding to conduct the necessary investigation. If this request is denied, the defense respectfully requests a written response. Thank you.

/s/  
C. P. HUR