



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

IN REPLY REFER TO:
5801
15MAR11

From: D. A. Donaldson, II, Major, USMC
To: Convening Authority
Via: Defense Counsel

Subj: RECOMMENDATION FOR CLEMENCY ICO U.S. V. CAPT DOUGLAS WACKER,
USMC, XXX-XX-3913

Ref: (a) R.C.M. 1105(b)(2)(D)

1. This letter is written pursuant to the reference which specifically provides for clemency recommendations by members of a court-martial to the convening authority via defense counsel.

2. On 11 March 2011, Captain Douglas Wacker was convicted by a General Court-Martial of which I was a member. The single specification for which he was convicted was conduct unbecoming of an officer for making a false official statement to the University of San Diego Critical Issues Board in June 2007 when he said that he had not engaged in sexual intercourse with Ms. Jessica Brooder.

3. The same panel of members found Captain Wacker not guilty of all other charges including the rape and sexual assault of Ms. Jessica Brooder and Ms. Elizabeth Easley respectively.

4. The panel awarded Captain Wacker no punishment and recommended that the court-martial be set aside.

5. I personally think that Captain Wacker should be subject to a General's Non-Judicial Punishment rather than a General Court-Martial for the lesser offense of lying. The University of San Diego has already meted out punishment to Captain Wacker by withholding his Juris Doctorate diploma as a result of his lie. He completed the curriculum to attain his law degree but he will never receive the diploma, he still owes them almost \$150,000 worth of tuition, and he will likely never be able to serve as a lawyer. That alone stands as sufficient punishment for his indiscretion of lying to the university's board. I feel that Captain Wacker deserves a second chance and I would like to express that I would still serve with him as a fellow Marine. We do not live in a zero-defect society in the Marine Corps and although I do think that making a false official statement is a serious offense, I do not think it warrants making Captain Wacker a felon for the rest of his life. Captain Wacker's

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lapse of judgment will most likely cost him a career in the Marine Corps but I do not think that it should ruin his life. If Captain Wacker is convicted of a felony offense due to being found guilty in a federal court-martial, I feel it will cause him to suffer irrecoverable consequences. Not only will he be affected but the lives of his wife, step-son, and unborn child will surely suffer. Please consider trying his case as a Non-Judicial Punishment in lieu of a Court-Martial.

6. If you have any questions, please contact me at (760)763-0516. Thank you for your consideration in this matter.



D. A. DONALDSON, IT

FAX COVERSHEET



DATE: 15 MARCH 2011

FROM: MAJ DONALDSON

TO: CAPT HURR

RE: Recommendation for Clemency

FAX: (619) 524-6784

CONTACT: MAJ DONALDSON (760) 763-0516