



UNITED STATES MARINE CORPS  
Western Judicial Circuit  
Navy-Marine Corps Trial Judiciary  
Camp Pendleton, CA 92055-5023

5800  
MJ  
20 Feb 2011

From: Military Judge, Western Judicial Circuit  
To: Mental Health Department, Naval Medical Center, San Diego, California  
Subj: REQUEST FOR MENTAL COMPETENCY BOARD IN THE CASE OF U.S. V. STAFF  
SERGEANT EDUARDO (NMI) MUNOZ XXX XX 4510 USMC  
Ref: (a) Rule for Courts-Martial 706, M.C.M. (2008 Ed.)  
(b) Military Rule of Evidence 302, M.C.M. (2008 Ed.)  
Encl: (1) Copy of referred charge sheet in the subject case  
(2) DDC ltr 5800 DEF dtd 16 Feb 11 Request for R.C.M. 706 exam ICO  
Staff Sergeant Eduardo Munoz


1. Staff Sergeant Munoz has been charged with the violations of the Uniform Code of Military Justice reflected in enclosure (1).
2. Staff Sergeant Munoz may have a history of mental health evaluations conducted pursuant to his pretrial confinement at the Marine Corps Air Station, Miramar, Confinement Facility. In accordance with reference (a), I have ordered an examination into Staff Sergeant Munoz's mental condition, to include his mental capacity to stand trial presently. This examination was directed based upon concerns Staff Sergeant Munoz's detailed defense counsel relayed in enclosure (2) and as were presented during a motions hearing into the issue on Friday, 18 February 2011.
3. It is requested that this examination be conducted, and the final reports produced, as soon as feasible. Trial dates for this case are pending the results of the examination.
4. In addition to other inquiries which may be necessary to effectively resolve the issues of mental responsibility and mental capacity, the appointed board should make separate and distinct findings as to each of the following questions:
  - a. At the time of the alleged criminal conduct, did the accused have a severe mental defect or disease? (The term "severe mental defect or disease" does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct, or minor disorders such as nonpsychotic behavior disorders and personality defects.)
  - b. What is the clinical psychiatric diagnosis?
  - c. Was the accused, at the time of the alleged criminal conduct and as a result of such severe mental disease or defect, unable to appreciate the nature and quality or wrongfulness of his conduct?
  - d. Is the accused presently suffering from a mental disease or defect rendering him unable to understand the nature of the proceedings against him or to conduct or cooperate intelligently in his defense?
5. Upon completion of the examination, a statement consisting only of the board's ultimate conclusions as to all questions specified in this request shall be submitted to me, as well as to trial and defense counsel. A full report of the board shall be released only to the accused's defense counsel.

Subj: REQUEST FOR MENTAL COMPETENCY BOARD IN THE CASE OF U.S. V. STAFF  
SERGEANT EDUARDO (NMI) MUNOZ XXX XX 4510 USMC

6. Neither the contents of the full report nor any matter considered by the board during its investigation shall be released by the board or other medical personnel to any person not authorized to receive the full report, except pursuant to an order by a military judge.

7. In accordance with reference (b), the board shall not disclose to the trial counsel in this case any statement made by the accused to the board or any evidence derived from such statements.

8. Questions pertaining to this request should be directed to me at (760) 725-6285. Scheduling matters should be directed to the trial counsel, Captain J. W. Torresala, USMC at (619) 524-4098, and defense counsel, Captain C. P. Hur, USMC at (619) 524-8713.



G. L. SIMMONS

Copy to:  
TC  
DC  
File