

NAVY-MARINE CORPS TRIAL JUDICIARY
WESTERN JUDICIAL CIRCUIT

U N I T E D S T A T E S)	GENERAL COURT-MARTIAL
)	
v.)	
)	GOVERNMENT REQUEST FOR
WUTERICH, Frank D.)	DEFENSE'S PAGE 56 MATTERS
XXX XX 3221)	
Staff Sergeant)	
U.S. Marine Corps)	30 DECEMBER 2011

1. Nature of Motion.

Pursuant to Rule for Courts-Martial ("R.C.M.") 905, the Government moves the Court to order the Defense to produce their exhibit list, additional voir dire and proposed jury instructions.

2. Summary of Facts.

On 26 August 2010, an Article 39a hearing was held on a number of matters. (See Encl. 1.) During the hearing, while explaining the previous R.C.M. 802 conferences held off the record, the Court indicated that the Defense had not yet provided any Page 56 Matters, to include voir dire, exhibit list, witness list, proposed instructions, etc. (See Encl. 1 at 5.) Although the Defense indicated a desire to hold off on voir dire questions, they did ensure the Court that a witness list would be provided in the near future. (See Encl. 1 at 5.) To

date, the Defense has yet to provide proposed jury instructions or an exhibit list.

3. Discussion.

The Government now moves the Court to order the Defense to provide the Government with its Page 56 Matters, in order to provide the Government adequate time to prepare its case.

This case has come within days of trial on numerous occasions, and yet proposed jury instructions and an exhibit list have never been produced to the Government. In an effort to reduce any chance of delay, the Government respectfully requests that the Defense provide an exhibit list, proposed additional voir dire, and proposed jury instructions.

4. Relief Requested.

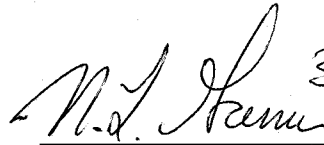
The Government respectfully requests that the Court order the Defense to produce its complete Page 56 Matters, in an effort to reduce the chance of delay and prejudice, to include but not limited to: exhibit list, proposed additional voir dire, and proposed jury instructions.

5. Evidence and Burden of Proof. The following evidence will be entered:

1. Enclosure 1: Article 39a Transcript from 26 August 2010, pgs 1-6.


Pursuant to R.C.M. 905(c), the burden of proof is a preponderance of the evidence, and is assigned to the Government as the moving party.

6. Oral Argument. None requested.

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N. L. Gannon
Major, U.S. Marine Corps
Trial Counsel

Certificate of Service

 I hereby attest that a copy of the foregoing motion was served on the ~~_____~~ opposing counsel by electronic mail on 30DEC2011.

 30DEC2011

N. L. Gannon
Major, U.S. Marine Corps
Trial Counsel