

**UNITED STATES NAVY-MARINE CORPS TRIAL JUDICIARY
NORTHERN JUDICIAL CIRCUIT
SPECIAL COURT-MARTIAL**

UNITED STATES)

V.)

Marina D. LOPEZ)
Staff Sergeant)
U. S. Marine Corps)

) GOVERNMENT ANSWER TO DEFENSE
) MOTION FOR A CONTINUANCE

) 16 May 2011
)

1. **Nature of Motion.** This is the government's response to the defense motion to continue this case from 31 May 2011 until 3 August 2011. The government does not oppose that a continuance should be granted but does oppose the proposed new trial dates of 3 August 2011.
2. **Summary of Facts.** Charges have been referred against the accused on 18 February 2011 for violating orders from a superior commissioned officer, violating OCS orders, maltreatment of Officer Candidates, and obstructing justice. Pursuant to the current pre-trial order, trial is set to commence on 31 May 2011 for a 4 day period.
3. **Discussion.** R.C.M. 906(b)(1) and its discussion stand for the proposition that continuances should be granted to prevent injustice and upon a showing of reasonable grounds. The defense is requesting a continuance for the purpose of interviewing witnesses and obtaining evidence; including additional time to flush out any potential issues surrounding the defense's request to produce GySgt Kelton as a witness. The government believes that the defense has demonstrated the grounds upon which a continuance is necessary to prevent injustice.

The government is not contesting whether the continuance should be granted. Rather, the government does not believe that this court-martial will require the two to three week time frame proposed by defense. Due to other court-martial and professional obligations the earliest trial dates that the defense can support for a 2-3 week block of time is 3 August 2011. While there are numerous potential witnesses in this court-martial, as the defense points out on page 5 of its motion, the government does not anticipate calling every potential witness. As such, the

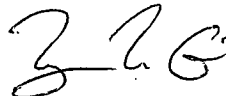
government does not believe that this court-martial will take the 2-3week period anticipated by the defense. The government proposes scheduling this court-martial to take place over a 5 day period commencing on 20 June 2011. The government believes that a continuance until 20 June 2011 will give defense additional time to allow for adequate pre-trial preparation. At this time the government is not aware of any potential conflicts with defense counsel's schedule on 20-24 June 2011.

The defense has asserted that the government's case would not be prejudiced by granting a two month continuance. The government disagrees, many of the government's witnesses are current Lieutenants at The Basic School and will be graduating 29 June 2011. Approving the continuance request past this date would require the government to incur substantial costs in terms of witness production, not to mention delaying the career progression of these potential witnesses as many will be commencing military occupational specialty school.

4. **Relief Requested.** The government requests that the military judge approve the defense's continuance request and move the commencement of this court-martial to 20 June 2011.

5. **Evidence.** The government will not present evidence in support of this motion.

6. **Oral Argument.** The government does not desire to make oral argument on this motion.



M. N. MCGUIRE
First Lieutenant, U.S. Marine Corps
Trial Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing via electronic mail on the court and defense counsel this 16th day of May 2011.



M. N. MCGUIRE
First Lieutenant, U. S. Marine Corps
Trial Counsel