



UNITED STATES MARINE CORPS

LEGAL SERVICES SUPPORT SECTION
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5800
LSST-E
20APR10

RETURN ENDORSEMENT on Mr. Faraj's ltr of 16 April 2010

From: Trial Counsel
To: Mr. Haytham Faraj, Esq., Defense Counsel

SUBJ: RESPONSE TO REQUESTS FOR PRODUCTION OF WITNESSES ICO U.S. V. WUTERICH

Ref: (c) RCM 703, MCM (2005 Ed.)
(d) TC ltr 5800 LSST-C of 26 Feb 07 w/ encls (Subj: Discovery of 26 February 2007)

1. Readdressed and returned pursuant to paragraph (c)(2)(D) of reference (c). Additionally, per the trial schedule ordered by the military judge in this case, the defense request for witnesses was due on 5 April 2010. The basic correspondence is dated 16 April 2010. As a result of the untimely submission of your witness request, the trial counsel was unable to contact all of the witnesses to determine their location, or if they can even be contacted with the information provided. Consequently, the government reserves the right to revisit any witness granted herein, who after additional investigation turns out to be deployed, is unavailable, or whom the trial counsel is unable to contact after making a reasonable effort to do so with the information provided.

2. Your request for the production of the witnesses identified in the basic correspondence at paragraph 2a-2p is granted. The subparagraphs below provide a witness-by-witness determination.

- a. Captain Lucas McConnell. This witness will be produced.
- b. First Lieutenant William Kallop. This witness will be produced.
- c. Sergeant Sanick Dela Cruz. This witness will be produced.
- d. Lance Corporal Rene Rodriguez. This witness will be produced.
- e. Lance Corporal Justin Sharratt. This witness will be produced.
- f. Private First Class Humberto Mendoza. This witness will be produced.
- g. Stephen B. Tatum. This witness will be produced.
- h. Sergeant Hector Salinas. This witness will be produced.
- i. Brian David Whitt. This witness will be produced.
- j. James Crossan. This witness will be produced.
- k. Trent Graviss. This witness will be produced.
- l. Gunnery Sergeant Travis Fields. This witness will be produced.

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- m. Jarrett Bilskie. This witness will be produced.
- n. James Prentice. This witness will be produced.
- o. Major Kathryn Navin. This witness will be produced.
- p. Jose Sanchez. This witness will be produced.

3. Your request for the production of the witnesses identified in the basic correspondence at paragraph 3a-3aa is granted in part and denied in part. The subparagraphs below provide a witness-by-witness determination.

- a. Lieutenant Colonel Kevin Gonzalez. Denied. Your request fails to establish this witness' relevance or materiality.
- b. Major Shannon Neller. Denied. Your request fails to establish this witness' relevance or materiality.
- c. Sergeant Major Edward Sax. Pursuant to the Court's order of 20 February 2008, this witness will be produced.
- d. Safa Yunnis Salem. Denied. The government has no mechanism under the law to obtain the presence of the requested witness.
- e. John Robert Gooch. Denied. Your request fails to establish this witness' relevance or materiality.
- f. Sergeant Juan Jose Maldonado. Denied. Your request fails to establish this witness' relevance or materiality.
- g. Major Jeffery Dinsmore. Denied. Your request fails to establish this witness's relevance or materiality.
- h. Major Dana Hyatt. Denied. Your request, as drafted, fails to establish this witness' relevance or materiality, or the admissibility of the proffered testimony.
- i. Gunnery Sergeant Larry Dunlap. This witness will be produced.
- j. James Prentice. As indicated in paragraph 1(n) above, this witness will be produced.
- k. Salvador Guzman. Denied. Your request, as drafted, fails to establish this witness' relevance or materiality and call for inadmissible testimony.
- l. Shanen E. Dawson. This witness will be produced.
- m. Sergeant Eric Ferrell. Denied. This witness is cumulative.
- n. Brian McDermott. This witness will be produced.
- o. Staff Sergeant Inranil Das. Pursuant to the Court's order of 20 February 2008, this witness will be produced.
- p. Martha-Ann Hawley. This witness will be produced.

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- q. Mike Largen. Denied. This witness is cumulative.
- r. Major John Hahn. Denied. This witness is cumulative.
- s. First Sergeant Eric Carlson. Denied. This witness is cumulative.
- t. David Wuterich. This witness will be produced.
- u. Rosemarie Wuterich. This witness will be produced.
- v. Captain Andrew Wallace. Pursuant to the Court's order of 20 February 2008, this witness is denied pending the submission of briefs and litigation of his relevance and materiality.
- w. Captain Warren Frank. This witness will be produced.
- x. Kahlid Salman Rassif Hussein. Denied. The government has no mechanism under the law to obtain the presence of the requested witness.
- y. Justin Laughner. This witness will be produced.
- z. Lieutenant Colonel Jeffery Chessani. Denied. Your request, as drafted, fails to establish this witness' relevance or materiality, and fails to establish any nexus to the Accused.
- aa. Special Agent Thomas Brady and Mr. Michael Maloney. These witnesses will be produced.

N. L. Gannon 20 APR 2010
N. L. Gannon

N. L. GANNON
Major, USMC

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