



UNITED STATES MARINE CORPS

OFFICE OF THE STAFF JUDGE ADVOCATE
MARINE CORPS RECRUIT DEPOT/WESTERN RECRUITING REGION
3700 CHOSIN AVENUE
SAN DIEGO, CALIFORNIA 92140-5001

IN REPLY REFER TO:
5810
GKL
27 Oct 10

From: Captain G. K. Logan, USMC, Trial Counsel
To: Captain J. F. Boyer, USMC, Defense Counsel

Subj: GOVERNMENT RESPONSE TO DEFENSE REQUEST FOR DISCOVERY IN
THE CASE OF UNITED STATES v. STAFF SERGEANT NICOLAS VEGA,
USMC

Ref: (a) R.C.M. 701, Manual for Courts-Martial (2008 ed.)
(b) 18 U.S.C. Sec. 3500 (1998)
(c) Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10
L.Ed.2d 215 (1963)
(d) U.S. v. Webster, 1 M.J. 216 (C.M.A. 1975)
(e) U.S. v. Kinzer, 39 M.J. 559 (ACMR 1994)

1. Pursuant to References (a) through (e), the Government hereby responds to the Defense Request for Discovery dated 19 October 2010 as follows:

a. **[Paragraph 1.a.]** The names of Government trial witnesses will be provided in accordance with trial milestones. The Government intends to call SA Rebecca Fitzsimmons, CIV Angelo Patti, GySgt David Puente and, if necessary, CIV Tony Messer and CIV Josephine Warner.

b. **[Paragraph 1.b.]** Previously provided to Defense.

c. **[Paragraph 1.c.]** Previously provided to Defense. Government trial exhibits will be provided in accordance with trial milestones.

d. **[Paragraph 1.d.]** Previously provided to Defense.

e. **[Paragraph 1.e.]** Previously provided to Defense.

f. **[Paragraph 1.f.]** Previously provided to Defense.

g. **[Paragraph 1.g.]** Previously provided to Defense.

h. **[Paragraph 1.h.]** Previously provided to Defense.

i. **[Paragraph 1.i.]** None known at this time.

Subj: GOVERNMENT RESPONSE TO DEFENSE REQUEST FOR DISCOVERY IN
THE CASE OF UNITED STATES v. STAFF SERGEANT NICOLAS VEGA,
USMC

- j. **[Paragraph 1.j.]** None known at this time.
- k. **[Paragraph 1.k.]** None known at this time.
- l. **[Paragraph 1.l.]** Denied as irrelevant.
- m. **[Paragraph 1.m.]** None known at this time.
- n. **[Paragraph 1.n.]** None known at this time.
- o. **[Paragraph 1.o.]** The Government will seek to have DoD 5500.7-R (Joint Ethics Regulations) judicially noticed as a lawful general order.
- p. **[Paragraph 1.p.]** Previously provided to Defense.
- q. **[Paragraph 1.q.]** None known at this time.
- r. **[Paragraph 1.r.]** None known at this time.
- s. **[Paragraph 1.s.]** Previously provided to Defense. Government trial exhibits will be provided in accordance with trial milestones.
- t. **[Paragraph 1.t.]** The names of Government trial witnesses will be provided in accordance with trial milestones.
- u. **[Paragraph 1.u.]** The names of Government trial witnesses will be provided in accordance with trial milestones.
- v. **[Paragraph 1.v.]** Previously provided to Defense.
- w. **[Paragraph 2.]** None known at this time.
- x. **[Paragraph 3.]** None known at this time.
- y. **[Paragraph 4.]** None known at this time.
- z. **[Paragraph 5.]** The counselors who are working or worked at MCRD San Diego, Family Services in 2009 are as follows: Val Loewe (619.524.0350) and Rick Ybarra (619.524.6864).
- aa. **[Paragraph 6.]** None known at this time.
- bb. **[Paragraph 7.]** Previously provided to Defense.

Subj: GOVERNMENT RESPONSE TO DEFENSE REQUEST FOR DISCOVERY IN
THE CASE OF UNITED STATES v. STAFF SERGEANT NICOLAS VEGA,
USMC

- cc. **[Paragraph 8.]** Previously provided to Defense.
- dd. **[Paragraph 9.]** None known at this time.
- ee. **[Paragraph 10.]** Previously provided to Defense.
- ff. **[Paragraph 11.]** Previously provided to Defense.
- gg. **[Paragraph 12.]** Denied.
- hh. **[Paragraph 13.]** Denied.
- ii. **[Paragraph 14.]** Granted.

jj. **[Paragraph 15.]** The diary of Kayla Orcutt referenced in her Article 32 testimony does not exist to the knowledge of the Government.

2. The above response constitutes all information known to the Government through due diligence at the time this response was transmitted. Should any of the requested information become known to the Government subsequent to this initial response, it will be furnished to the Defense as soon as possible.

3. The Government requests reciprocal discovery as required by Reference (a) and applicable case law, including but not limited to:

a. The names and addresses of all witnesses whom the Defense intends to call during the Defense case in chief and all sworn or signed statements known by the Defense to be made by such witnesses in connection with the case, as set forth in R.C.M. 701(b)(1)(A); and

b. The names and addresses of all witnesses whom the Defense intends to call at the pre-sentencing proceedings under R.C.M. 701(b)(1)(B)(i), and a description of expected testimony if production is requested and reasons why personal appearance is necessary.

c. Notification of evidence to be presented by Defense in its case on the merits and sentencing.

d. Notice under MRE 505(h) and MRE 506(h).

Subj: GOVERNMENT RESPONSE TO DEFENSE REQUEST FOR DISCOVERY IN
THE CASE OF UNITED STATES v. STAFF SERGEANT NICOLAS VEGA,
USMC

4. The Government continues to request the following information, which was initially requested on 18 July 2008: any and all personal credit and/or debit card numbers for MSgt Jeffery W. Davidson, USMC, dating from 1 January 2006 to 30 November 2007, to include active and cancelled cards between those periods, as well as any and all cards having the following last four digits: 1350, 7070, and 5800.

5. As noted in R.C.M. 701(d), this request continues before and during trial.


G. K. LOGAN
Capt, USMC
Trial Counsel

Subj: GOVERNMENT RESPONSE TO DEFENSE REQUEST FOR DISCOVERY IN
THE CASE OF UNITED STATES v. STAFF SERGEANT NICOLAS VEGA,
USMC

CERTIFICATE OF SERVICE

A true copy of this response was served upon the Defense on this
date: 27 October 2010.


G. K. LOGAN
Capt, USMC
Trial Counsel