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UNITED STATES MARINE CORPS

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IN REPLY REFER TO:
5811
SDC/hf
27 Feb 08

From: Detailed Defense Counsel
To: Commander, Marine Forces Central Command

Subj: REQUEST FOR EXPERT ASSISTANCE ICO US V. SSGT FRANK D. WUTERICH, USMC

Ref: (a) RCM 703, MCM (2005 ed.)
(b) Article 46, UCMJ
(c) *US v. Paaluhi*, 54 M.J. 181 (CAAF 2000)

Encl: Curriculum Vitae of Col L. A. Hugg, USAF

1. Per references (a) and (b), the defense requests that Col L. A. Huff, USAF be provided as a confidential defense expert consultant in the field of forensic psychiatry to consult with the defense. Col Huff's address is: AFRRI/MMO, 8901 Wisconsin Avenue, Bldg 42, Bethesda, MD 20889-5603. His email address is: huff@afrrri.usuhs.mil. His telephone number is: 202-683-7818.

2. SSgt Wuterich is accused of nine specifications of voluntary manslaughter in addition to other serious charges that carry a maximum sentence of 160 years and six months of confinement, reduction to E-1, forfeiture of all pay and allowances and a dishonorable discharge.

3. SSgt Wuterich is an infantry Marine who has undergone years of infantry training, training that aims to replicate specific tactical situations with the aim of having the Marines being trained to respond automatically, without any contemplation or analysis of the act about to be undertaken. By undergoing through regular repetitive training, SSgt Wuterich became conditioned to responding in a specific manner every time he encountered the environmental conditions he was exposed to in training. The manner in which SSgt Wuterich processed information, made decisions, and took action is known as the science of cognition.

4. The science of cognition relates to the manner in which individuals process information, make decisions, and take action with regard to aspects of what they are experiencing in their environment. It is a well established area of scientific study and it is presented in hundreds of peer reviewed scientific articles, textbooks, and textbook chapters over the past three decades.

5. As Col Huff's curriculum vitae demonstrates, he is an expert in the area of psychiatric science and is required to assist the defense in the preparation of its theory of defense and presentation of its case.

6. Another area that Col Huff will provide assistance in is witness memory recall, the impact of the lapse of time on memory retention, and suggestibility.

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7. The Government provided the defense notice that it intends to depose Iraqi witnesses, several of whom are children. These children have been exposed to alternative suggestions of the facts in this case and coaching by adults as was demonstrated on several recorded video and audio interviews. These witnesses' memories will have been impacted by the trauma of their experiences on 19 November 2005, the suggestion by adults about what happened, their exposure to the media and investigators, and the lapse of time.

8. Col Huff has experience in the field of memory retention and recall as well as the impact of suggestions of alternative facts and the passage of time. His assistance is necessary to assist the defense in reviewing the videotaped depositions to determine whether factors exist that may have affected the witnesses' memories.

9. Enclosed please find Col Huff's curriculum vitae. The defense requests approval of 30 hours of time for review of the video depositions and evidence and for consultation; and three days for in court testimony and travel. There will be minimal expense to the Government being that Col Huff is currently on active duty with the United States Air Force.

10. Pursuant to case law and the Manual for Courts-Martial, there are three prongs the defense must satisfy to justify the appointment of an expert:

a. Why the expert is needed? The defense theory in this case depends on the presentation of evidence about training, environmental stimulus and its impact on cognition. The defense may also need the assistance of the expert to assist in determining factors related to the Iraqi witnesses' changed stories or different recollections of the facts than those previously recollected. And, if it becomes necessary, discuss how victim identification of the accused may be influenced or corrupted.

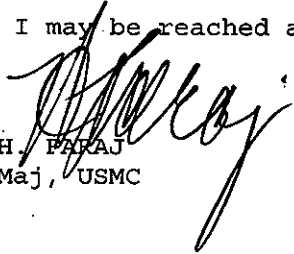
b. What the expert would accomplish for the defense? Col Huff will assist the defense in understanding the science behind the issues at stake. He will provide guidance in developing testimonial evidence and may become an expert witness.

c. Why the defense cannot gather this evidence on their own? The defense can posit theories but none of the defense counsel have the expertise or knowledge in the field of psychiatry. And, although defense counsel may find articles to read about the matters they seek to present, articles do not provide the necessary expertise to develop and present evidence. Moreover, the defense counsel cannot take the stand and testify about their opinion with respect to cognition and memory. Accordingly, the assistance of an expert consultant is necessary.

11. Col Huff is requested as a consultant. He will be a member of the defense team subject to the same standards governing attorney-client privileges and confidences.

12. Denial of this request would result in a fundamentally unfair trial and would impede SSgt Wuterich's rights under the Fifth Amendment Due Process Clause and his Sixth Amendment right to effective assistance of counsel.

13. Your written response is requested. I may be reached at 760-725-8114.


H. PARAJ
Maj, USMC

L. Andrew Huff, M.D., M.P.H.
Col, USAF, MC, SFS

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HOME ADDRESS

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EDUCATION

Harvard School of Public Health
M.P.H., June 2001
Uniformed Services University of the Health Sciences
M.D., May 1988
Albion College
B.A., May 1984
Spanish, Computational Mathematics
Harvard University
Physics, Summer, 1983
New York University in Madrid
Spanish, Winter, 1983
Middlebury Language Schools
Spanish, Summer, 1982

EXPERIENCE

**Armed Forces Radiobiology Research Institute and National
Naval Medical Center**
Uniformed Services University of the Health Sciences
Bethesda, MD 20814
Director, Military Medical Operations
Headquarters, First Air Force and 325th Medical Group
Tyndall AFB, FL 32403
Surgeon General, First Air Force
Staff Psychiatrist, 325th Medical Group
July 2005-June 2007
Mike O'Callaghan Federal Hospital (99th Medical Group)
Nellis AFB, NV 89191
Commander, 99th Aerospace Medicine Squadron
Staff Psychiatrist
July 2003-July 2005
United States Air Force School of Aerospace Medicine
Brooks AFB, TX 78235
Aerospace and Occupational Medicine Residency
July 2001-June 2003

95th Medical Group

Edwards AFB, CA 93524
Deputy Commander, 95th Aerospace Medicine Squadron
Deputy Chief of Medical Staff
September 1998-August 2000
Flight Commander, Flight Medicine
July 1998-August 1998
Flight Commander, Mental Health Flight
Psychiatrist
July 1997-June 1998

59th Medical Wing

Wilford Hall USAF Medical Center
Lackland AFB, TX 78236
Psychiatry Residency
PG-4 Chief Resident (96-97)
July 1994-June 1997

722nd Medical Group

March AFB, CA 92518
Assistant Director, Emergency Services
April 1993-June 1994

82nd Medical Squadron

Williams AFB, AZ 85240
Chief, Emergency Services
General and emergency medicine
August 1991-April 1993

401st Tactical Fighter Wing Hospital

Torrejón AB, Spain
Flight medicine and emergency medicine
July 1989-July 1991

United States Air Force Medical Center, Scott

Scott AFB, IL 62225
Transitional internship year
June 1988-June 1989

**SPECIAL
PRESENTATIONS**

- "Psychological Effects of Terrorism in North America" presentation at the North American Aerospace Defense Command Chaplain conference, Tyndall Air Force Base, Florida, April 2007.
- "Psychological First Aid – A Practical Training Approach" seminar full-day training at the Air National Guard Medical Service conference, Snowbird, Utah, August 2006.
- "Brief Psychotic Episode Secondary to Marital Discord" case presentation. Aerospace Medical Association Annual Meeting, Kansas City, Missouri, May 2005.

- “Pilot Personality, Stress, and Fatigue” poster session. Aerospace Medical Association Annual Meeting, Anchorage, Alaska, May 2004.
- “Psychological Testing: Selection for High Risk Military Duty” with United States Southern Command in Bogotá, Columbia, January 2003. Presentation in Spanish.
- “Aircrew Selection – Mental Health Considerations” with United States Southern Command in Buenos Aires, Argentina, August 2002. Presentation in Spanish.
- Case report of an aviator with focal myocarditis mimicking myocardial infarction with normal coronaries. Aerospace Medical Association Annual Meeting, Montreal, Canada, May 2002.
- Depression in the military aviator. Aerospace Medical Association Annual Meeting, Montreal, Canada, May 2002.
- Presented “Psychiatric Aspects of Aviation Medicine” as invited psychiatric consultant to the Portuguese Air Force, June, 1998
- Formal paper presentation of “Psychodynamic Formulation for the 1990s” at Naval Hospital Bethesda for all area military psychiatry residents, April, 1997

PUBLICATION

Case report of an aviator with focal myocarditis mimicking myocardial infarction with normal coronaries. *Aviation, Space, and Environmental Medicine*, March 2002.

HONORS

- Phi Beta Kappa, Albion College, Fall 1983
- Summa Cum Laude, Albion College, May 1984

PROFESSIONAL AFFILIATION

American Psychiatric Association, Uniformed Services Chapter
Associate Fellow, Aerospace Medical Association
Society of USAF Flight Surgeons

CERTIFICATION & LICENSURE

Psychiatry Diplomate, American Board of Psychiatry and Neurology, expires 2008
Forensic Psychiatry Diplomate, American Board of Psychiatry and Neurology, expires 2009
Board Certification in Aerospace Medicine, American Board of Preventive Medicine, expires 2013
Advanced Cardiac Life Support, Instructor/Provider, expires June 2007
Basic Life Support, expires June 2007
Advanced Trauma Life Support, expires 2007
Active state medical license in Michigan
Private Pilot, Instrument Rating, 337 hours as of June 2007

PROFESSIONAL MILITARY EDUCATION

Air Command and Staff College Seminar, completed
Air War College Seminar, completed