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THE LAW FIRM OF PUCKETT AND FARAJ, PC

April 16, 2010

Via Email

Commander
U.S. Marine Corps Forces Central Command
Tampa Florida

Via: Trial Counsel, *United States v. SSgt Wuterich*

Ref: Article 46, UCMJ
RCM 703(c)(2)(B), MCM (2008 ed.)

1. The accused, by and through undersigned counsel, hereby requests the production of the following witnesses. All requested witnesses are necessary, relevant and material to the defense' case in chief or for presentencing should that become necessary. The defense acknowledges this request is submitted past the due date. The complexity of the case and counsel's schedule were factors in the late submission. This request in not submitted late for any tactical reasons.

2. The below witnesses are all percipient witnesses to the events of the day on November 19, 2005. They will provide direct evidence of events in Haditha Iraq or evidence that will assist the fact finder in determining the accused's state of mind.

- a. Captain Lucas McConnell.
- b. 1stLt William Kallop
- c. Sgt Sanick Dela Cruz
- d. LCpl Rene Rodriguez
- e. LCpl Justin Sharratt
- f. PFC Humberto Mendoza
- g. Mr. Stephen B. Tatum
- h. Sgt Hector Salinas

- i. Mr. Brian David Whitt
- j. Cpl James Crossan
- k. LCpl Trent Graviss
- l. SSgt Travis Fields
- m. Cpl Jarrett Bilskie
- n. LCpl James Prentice
- o. Maj Kathryn Navin
- p. Cpl Jose Sanchez

3. The following witnesses may not be percipient witnesses but will provide relevant evidence that will be illustrative of the battle situation on or about November 19, 2005, or will provide evidence that will be probative to establishing the accused's state of mind at the time he made certain decisions or took or failed to take certain actions that have been charged or form a basis for charges on the charge sheet.

- a. LtCol Kevin Gonzalez, (714)313-5523
Summary: LtCol Gonzalez is the former Operations Officer of 3/1. He will testify about the type of training the battalion received prior to deployment. He will testify about the various field exercises and specific training evolutions where MOUT training was taught. He will also talk about the ROEs as they applied to the battalion's mission on 19 November, 2005, how he oriented the battalion's Marines on the likely threats and how he proposed they deal with it. He will also give his impression of the general discipline of Kilo company and its application of the ROE's and EOF.
- b. Maj Shannon Neller, MCSF Bangor, WA; (949)338-2553
Summary: Maj Neller is the former Lima 3/1 company commander and battalion operations officer. Maj Neller will testify that Kilo company was the most disciplined company in the battalion, that the Marines were well trained and executed on 19 November in accordance with their training. He will also testify that on 19 November the enemy was conducting a complex operation against the Marines in Haditha and that the events in the vicinity of Routes Viper and Chestnut were part of a larger attack in which his company was also engaged to the east.
- c. SgtMaj Sax, Edward, Marine Corps Detachment, U.S. Army Training Center Fort Leonardwood, Mo. (573)596-0752
Summary: Sgt Maj Sax was the 3/1 SgtMaj on 19 November 2005. He will testify about Kilo company's training and disciplined application of the ROEs. He will also testify

about SSgt Wuterich's discipline and reputation for good military character in the battalion.

d. Miss Safa Yunis Salem (Salim)

Summary: Ms. Salem will testify that the shooter in the back bedroom in house #2 was the first Marine to open the bedroom door and that he began firing immediately. She will also testify that the shooter was shorter than her.

e. John Robert Gooch.

Summary: A former member of H&S company EOD security at Haditha Dam. He responded to the blast site along with the EOD team. Confirms that they came under SAF and responded causing two enemy casualties.

f. Sgt Juan Jose Maldonado, H&S Co. 3/1.

Summary: Responded with EOD to the blast site. En route he reports being attacked by small arms fire and possibly two IEDs.

g. Major Jeffery Dinsmore. Intelligence officer 1st Reconnaissance Bn, 1st Marine Division.

Summary: Major Dinsmore will testify about the general enemy situation that he personally briefed to Kilo 3/1, and specifically SSgt Wuterich and his squad. His briefs are pivotal to establishing the mind-set of the Marines as they were attacked on November 19, 2005. He also provides evidence concerning enemy tactics and procedures, evidence that is directly relevant to the defense of the charges in this case.

h. Maj Dana Hyatt- Civil Affairs Group, 3/1 det OIC.

Summary: Maj Hyatt will testify that schools were not supposed to be shut down in Haditha. He will also testify that the town was "technically" not locked down. Yet on the morning of the IED attack the schools were in fact shut.

i. GySgt Larry Dunlap, Company Gunnery Sergeant, Kilo 3/1

GySgt Dunlap, was in the CoC when the attack occurred. He will testify about the general situation as it developed based on reports received throughout the day.

j. LCpl James Prentice, Kilo co. 3/1

Summary: LCpl Prentice was a member of the QRF on November 19. He will testify that there was small arms fire when the QRF arrived. He will also testify that based on intel briefs that the platoon received an IED attach is normally followed by a VBIED, mortar fire, an ambush, or small arms fire. He will also testify that he was taught that structures may be declared hostile.

k. LCpl Salvador Guzman

Summary: Cpl Guzman will bolster or impeach LCpl Guzman by testifying about conversations that he had with LCpl Mendoza concerning the events of November 19.

l. Lt Shanen E. Dawson, TBS, 1-925-518-4088.

Summary: 1stLt Dawson was a vehicle commander with Mobile Assault Platoon from Jan 2006 – January 2007. 2ndLt Dawson will testify about SSgt Wuterich's military character, character for truthfulness and peaceableness

m. Sgt Eric Ferrell, 3/1, 760-201-5658.

Summary: Sgt Ferrell was a vehicle commander with the Mobile Assault Platoon during the same time as SSgt Wuterich. He will testify about SSgt Wuterich's good military character, truthfulness, and peaceableness.

n. Mr. Brian McDermott, 760-429-5355.

Summary: Mr. McDermott has been a friend of SSgt Wuterich since 1997. They went to boot camp together and subsequently were assigned to 1st BN 3rd MAR then SOI West as Combat Instructors. Mr. McDermott will offer evidence of SSgt Wuterich's peaceableness and truthfulness.

o. SSgt Inranil Das, MECEP program, Iowa State University, 760-774-9430

Summary; SSgt Das is a friend of SSgt Wuterich. They served together at 1/3 as well as Combat Instructors. He will provide evidence of SSgt Wuterich's, truthfulness and peaceableness.

p. Martha-Anne Hawley, 203-915-3708

Summary: Ms. Hawley was a high school classmate of SSgt Wuterich she will testify about his truthfulness and peaceableness as well as rehabilitative potential, if necessary

q. Mr. Mike Largen, 760-805-6205

Summary: Mr. Largen served with SSgt Wuterich as Combat Instructors together. Mr. Largen will testify about SSgt Wuterich military character, rehabilitative potential and peaceableness

r. Maj. John Hahn, 916-871-9001

Summary: Maj Hahn was SSgt Wuterich's former company commander at SOI West. He will testify about SSgt Wuterich's truthfulness, good military character and rehabilitative potential.

s. 1stSgt Eric Carlson,

Summary: 1stSgt Carlson was SSgt Wuterich's company gunnery sergeant during his tour with SOI West. He will testify about his military character rehabilitative potential, and truthfulness.

t. Mr. David Wuterich (SSgt Wuterich's father), 24 Retreat Ave., Meriden, CT. 06451 (203)634-0148.

u. Mrs. Rosemarie Wuterich (SSgt Wuterich's mother) 24 Retreat Ave., Meriden, CT. 06451 (203)634-0148.

- v. Capt Wallace, Andrew M., OpLaw instructor TTECG; (760)830-77210
Summary: Capt Wallace is the operational law instructor with Tactical Training and Exercise Control Group at Marine Corps Base, 29 Palms. Capt Wallace will testify that beginning in 2006 the Marine Corps began to train Marines on certain ROE scenarios. Capt Wallace will be used to establish a foundation for admitting the scenarios and authenticating the power point slides used to teach ROE classes. The ROE slides are relevant because they contradict the ROEs taught to SSgt Wuterich by Maj Navin before he deployed to Iraq in September 2005. The changes in the ROEs demonstrate that the Marine Corps changed its position on how Marines respond to a scenario that replicates the events at Roadside.

- w. 1stLt Frank, Warren, Lima Co. 3/1 (760)763-7594
Summary: 1stLt Frank was the platoon sergeant of SSgt Daniels. He will testify that on November 19, 2005, he and SSgt Daniels went to SSgt Wuterich in the late morning. He will testify that he does not remember SSgt Wuterich reporting that the men in the white car fired on them. His testimony contradicts that of SSgt Daniels and is therefore material, relevant and necessary.

- x. Khalid Salman Rassif Hussein-
Summary: He gave a statement that at about 0730 on 19 November he heard a very loud explosion followed by “very strong firing. Defense will stipulate to testimony as a substitute for his production.

- y. SSgt Justin Laughner. HET assigned to Kilo 3/1.
Summary: SSgt Laughner will testify that on November 19, 2005, en route to the location of the IED blast, he was in a convoy that received SAF. He fired at some men that he saw running but who did not pose a threat at the time of their movement. He will also testify consistent with statements that the early reports on November 19, 2005, were that Marine heard an AK-47 racking before the entered house #1. He will also testify that he inspected and took photos of the area around the white car which was consistent with SSgt Wuterich’s statement that the men around the white car were engaged from the convoy area. He will also testify that an unknown Marine told him that 8 AK-47s were recovered from the white car.

- z. LtCol Jeffery Chessani.
Summary: LtCol Chessani was the accused’s battalion commander. When he assumed the battalion’s battle space and mission he received numerous briefs on the enemy’s training, tactics and procedure. He also received briefs on the relieved units losses and combat casualties. LtCol Chessani will testify about briefs he gave to the Battalion’s officers regarding tactics. These briefs were later communicated as “commander’s intent” to SSgt Wuterich and form the basis of his state of mind when he made tactical decisions on November 19, 2005.

- aa. NCIS SA Brady and NCIS SA Maloney

