

UNITED STATES MARINE CORPS
NORTHERN JUDICIAL CIRCUIT

UNITED STATES)	SPECIAL COURT-MARTIAL
)	
v.)	DEFENSE MOTION FOR A
)	CONTINUANCE
MARINA D. LOPEZ)	
STAFF SERGEANT)	13 APRIL 2011
U.S. MARINE CORPS)	

1. Nature of Motion. SSgt Marina Lopez, by and through counsel, hereby moves for a continuance of the trial scheduled to commence on May 27, 2011 until May 31, 2011. This motion is made pursuant to Article 40 of the Uniform Code of Military Justice and R.C.M. 906(b)(1). A continuance is necessary because civilian defense counsel has prescheduled and paid for a CLE that is necessary for counsel's annual CLE requirements. The CLE is scheduled to take place from May 21 until May 26. This CLE is scheduled a year in advance and was planned and paid for before SSgt Lopez retained civilian counsel. Attendance of the CLE is necessary because in addition to satisfying counsel's annual CLE requirement, it certifies counsel to teach a series of seminars throughout the year. This particular certification training is conducted once a year and no other opportunity will be provided to certify until May of 2012. Failure to attend and certify will cause counsel to miss several important CLE teaching opportunities this year and the next.
2. Discussion. Article 40 of the U.C.M.J. states that the military judge should, upon a showing of good cause, grant a continuance to any party for as long and as often as is just. 10 U.S.C. §840. A continuance may be granted only by the military judge. R.C.M.

906(b)(1). The standard of review of a military judge's decision to deny a continuance is abuse of discretion. *United States v. Weisbeck*, 50 M.J. 461 (C.A.A.F. 1989). Failure to attend the scheduled CLE would cause counsel to miss an important opportunity to satisfy his state CLE Bar requirements and an opportunity to certify to teach a series of CLE courses throughout this year and the next.

The requested delay is of a short period and will not affect the availability of witnesses or evidence. Accordingly, the defense requests that the Court grant the requested delay of the trial until May 31, 2011.

Respectfully submitted,

_____/S/
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CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2011, I electronically filed the foregoing paper with the Military Judge and with the Government at the following: Capt Peter Combe at Peter.combe@usmc.mil.

_____/S/_____
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