

UNITED STATES MARINE CORPS
WESTERN JUDICIAL CIRCUIT

UNITED STATES)	SPECIAL COURT-MARTIAL
)	
v.)	DEFENSE MOTION
)	TO DISMISS (UNLAWFUL PRETRIAL
JOSE BRITO)	PUNISHMENT MOTION)
SERGEANT)	
U.S. MARINE CORPS)	26 September 2010
)	
)	
)	

1. Nature of Motion.

The defense hereby moves this court, pursuant to Rule for court-martial 907, to dismiss all charges and specifications in this case because of violation of Article 13, U.C.M.J, unlawful pretrial punishment. If this case is not dismissed, the defense asks for such other relief as may be just under the law. The burden to demonstrate unlawful pretrial punishment falls upon Sgt Brito to support his alleged facts by a preponderance of the evidence.

2. Summary of Facts.

- a. The accused's command, as unlawful pretrial punishment, moved Sgt Brito from RS, to base, to RS, to base, to brig, to RS, to base in an effort to punish him, deny him the ability to develop good post accusation character witnesses and to place him in a precarious reporting situation wherein he would likely be reported UA even if he were not.
- b. On 18 December 2008 Sgt Brito was relieved from his duties as a SNCOIC of RSS Costa Mesa by his commanding officer Maj M. W. Stehle.
- c. Sgt Brito was reassigned to the RS's Supply Section for GySgt J. Aguilar and SSgt D.

Amantine. While working there, Sgt Brito cleaned up the back office, helped his superiors prepare for an upcoming inspection, washed the RS government vehicles, helped setup an all hands event for the RS and issued out gear to the RSS's.

- d. Around October 2009, RS Orange had 5 recruiters working at supply. One day SgtMaj Mark Gonzalez called Sgt Brito into his office and said that Sgt Brito was to be PTAD to Camp Talega at Camp Pendleton, CA.
- e. Sgt Brito asked what he was going to do and SgtMaj Gonzalez said Sgt Brito would be working in his primary MOS (3521, formerly 3529).
- f. Shortly thereafter, Sgt Brito checked-in to a Gunnery Sergeant and then met with his new OIC, a Major at Camp Talega at Camp Pendleton, CA.
- g. When he reported to his new OIC, the Major said you will be assigned to camp services. The Major also mentioned that he knew what was going on with Sgt Brito at RS Orange. The Major at Camp Pendleton told Sgt Brito that if Sgt Brito needed to go to the RS or go to appointments, to just check out with the Sergeant that then Staff Sergeant Brito would be working for. Sgt Brito was a Staff Sergeant at the time.
- h. The Major OIC also said to Sgt Brito, that he and Maj Stehle were very good friends and that they have known each other for a long time.
- i. During the time at Camp Talega, Sgt Brito went to a summary court-martial (that is currently being appealed¹).

¹ After receiving walk-in NJP advice, Sgt Brito pled guilty to the wearing of **authorized** medals: a voluntary service medal and a combat action ribbon. Sgt Brito had actually been awarded that VSM in a command formation back in MCAS Yuma in December 2002. For the CAR, Brito had been informed by his OIC CWO J. Rogers that he rated the CAR for combat he was involved with in Iraq and that he would personally put Sgt Brito in for it. Sgt Brito received poor and ineffective advice of counsel. He pled guilty to a non-offense. That conviction is currently the subject of an Article 69 appeal because there is no factual basis to support the guilty finding. The entire basis for

- j. After two months at Talega the Camp Pendleton command tried to tell RS Orange that Sgt Brito had been UA.
- k. RS Orange XO (Capt Michael Digangi) called Sgt Brito to ask him where he has been.
- l. Capt Digangi told Sgt Brito that Talega said that he was UA.
- m. Sgt Brito said he was reporting in with them and going to appointments. Sgt Brito went to the RS the next day and the SgtMaj asked him about what was going on? Sgt Brito explained what happened to the SgtMaj Gonzalez and SgtMaj Gonzalez called the Sgt at Camp Talega to see if Sgt Brito was checking-in with them. The Sgt told the SgtMaj Gonzalez that Sgt Brito has been checking-in with him every day. Ultimately, SgtMaj Gonzalez talked to the RS CO Maj Stehle and they dropped discussion of charging Sgt Brito with UA.
- n. Shortly thereafter, Sgt Brito was sent to Naval Weapons Station Seal Beach to work for the artillery unit 5th Battalion, 14th Marine Regiment.
- o. Before Sgt Brito went there, he had to go do an interview with the SgtMaj of the command (SgtMaj McKeone). SgtMaj McKeone told Sgt Brito at the beginning that the CO did not want him here.
- p. Sgt Brito was warned that if he did anything bad, he would be sent back to RS Orange.
- q. Sgt Brito checked in with a SSgt Innes in maintenance at Seal Beach.
- r. The SSgt Innes and his Cpl Gonzalez told Sgt Brito that the CO talked to them and said to keep an eye on Sgt Brito and if they ever saw anything wrong to tell him and Sgt Brito would be sent back to RS Orange.

the summary court-martial is questionable and begs the question as to the motive behind the command charging something that is devoid of any factual basis.

- s. A couple of weeks later, the SSgt Innes lost his phone and searched everyone that was in the shop.
- t. SSgt Innes ordered Cpl Gonzalez to search his section's Marines' vehicles 3 times. He never found it and the Command blamed Sgt Brito for it.
- u. This was the 2nd phone that SSgt Innes had lost.
- v. Without any proof and only an accusation, Sgt Brito was sent back to the RS Orange.
- w. After being sent to Camp Talega, but before going to Seal Beach, Sgt Brito felt like he was being moved around frequently because his command believed he was guilty and did not want him around. Before leaving RS Orange, Sgt Brito had spoken with a MSgt Byer, the Equal Opportunity Officer for RS Orange. MSgt Byer told Sgt Brito that he thought the command was messing with him, so he said he would discuss this with the RS Orange CO Stehle.
- x. Of the two units Sgt Brito was sent to before going to the brig and then to work at S-4 at 12th Marine Corps District, Camp Talega and Seal Beach SNCOICs made very clear that they had been briefed about Sgt Brito's misconduct (as if Sgt Brito were already found guilty) and also that Sgt Brito's parent command, RS Orange, did not like him.
- y. On or about 23 March 2010, RS Orange issued an MPO to Sgt Brito that forbade him to talk to specific women as well as anyone that could be a witness in his case or a former applicant.
- z. At the time, Sgt Brito was living with a Ms. Karen Walker, a woman that that had been discharged from the Marines.
- aa. On or about the afternoon of 30 March 2010, SgtMaj Gonzalez called Sgt Brito and told him to come into the RS in cammies because the CO Maj Stehle needed him to sign some

paperwork. On 31 March 2010, Sgt Brito was at the RS and SgtMaj Gonzalez told Sgt Brito that he was going to go the brig. Two Gunnery Sergeants (Duran and Mcree) escorted Sgt Brito to get all of his belongings he needed. Sgt Brito spent about 83 days in the brig.

- bb. SgtMaj Gonzalez demanded and took Sgt Brito's personal cell phone without authorization or permission. A few weeks later Capt Hur demanded return of the telephone. It was returned missing the phone's SIM card which included photos, messages, contacts, and other personal information. One of the photos on the phone was of SgtMaj Gonzalez kissing a Cpl Angel at the Marine Corps Ball. That photo is gone.
- cc. Sgt Brito owned a cell phone store and business. The business employed several employees and generated income to Sgt Brito. Without his being available to manage the business, the store shut down while he was confined. All employees were laid off and he lost a substantial source of income.
- dd. After an Article 32 hearing that cleared Sgt Brito of most of the serious charges he faced, Sgt Brito was released from the Miramar Brig following a second IRO hearing with a magistrate.
- ee. After being released from the brig, Sgt Brito worked for about 2 months at RS Orange. At first his command (Maj Zummo) tried to issue him a new MPO that prohibited him from contacting Ms. Karen Walker. Then the command realized that that might be unlawful and so then they rescinded that MPO and excluded Karen Walker. That second MPO ended in July 2010 and was not renewed.
- ff. After being released from the brig, and Sgt Brito was back at the RS, Sgt Brito spoke with the executive officer of the RS, a Captain Digangi to say that the wanted to report

what happened with a vehicle accident on 17 December 2008 (Sgt Brito believed that a vehicle accident involving RS Orange Marines under the influence of alcohol had not been properly investigated). Sgt Brito said he wanted to go talk to the District about this because the RS SgtMaj Gonzalez told Sgt Brito to shut about it so Brito explained he didn't know whom to trust in the RS. The RS XO Capt Digangi ordered Sgt Brito to not go to see anyone at 12MCD. The XO Capt Digangi went and talked to the RS Orange CO Maj Zummo. The XO Capt Digangi then told Sgt Brito that they would reopen the accident investigation, but Sgt Brito had to do a statement. Sgt Brito turned in the statement the following week. The XO Capt Digangi said he would look into it.

gg. Then, Sgt Brito was given PTAD orders to go to 12th district in San Diego to work in the S-4 section. When he checked into 12MCD, the district SgtMaj Archambault told Sgt Brito that he was brought down here to District at MCRD because RS Orange said that they cannot keep track of him and that they didn't have a job for him. Sgt Brito's boss at RS Orange, a GySgt Aguilar, said that they never had a problem with Sgt Brito and that Brito helped out a lot at the RS Supply section.

hh. When Sgt Brito was checking in with the 12th MCD S-4 chief, a Gunnery Sergeant Hernandez-Garcia, he too told Sgt Brito that he had heard different things about Sgt Brito, but that didn't matter. Sgt Brito was told by Gunnery Sergeant Hernandez-Garcia, that he would start with a clean slate and to make sure Sgt Brito just kept him informed about what Sgt Brito had to do with regards to preparing his defense.

ii. Recently, Sgt Brito requested leave to see his mother. On about 1 September 2010, Sgt Brito's mother went to the hospital because she was spitting up blood. Sgt Brito's mother's husband, Sgt Brito's stepfather, called Sgt Brito and informed him of his

mother's condition. When Sgt Brito found out she was put in intensive care at the Hospital in Colton, CA, he called GySgt Hernandez-Garcia to see if he could go and see her.

- jj. GySgt Hernandez-Garcia told Sgt Brito that he could be let off Thursday, but had to be back by Friday.
- kk. On Thursday morning, GySgt Hernandez-Garcia told Sgt Brito that he needed a red cross message or Sgt Brito had to be back by noon.
- ll. Sgt Brito requested to take leave, but Sgt Brito was informed by his GySgt that he could not take leave because he was on legal hold.
- mm. Sgt Brito then requested mast. His OIC, Maj Dodd, spoke to him. Sgt Brito explained the situation to his OIC Maj Dodd. Sgt Brito then stopped his Request Mast.
- nn. Maj Dodd, Sgt Brito's OIC, approved for Sgt Brito to take leave to visit his sick mother.
- oo. However, when GySgt Hernandez-Garcia went to talk to the executive officer, LtCol M. Begin, the 12thMCD executive officer began to berate GySgt Hernandez-Garcia.
- pp. Before they closed the door, LtCol Begin said "why are we helping out a bad Marine?"
- qq. The executive officer gave GySgt Hernandez-Garcia a hard time. GySgt Hernandez-Garcia was in the office for about 40 minutes with LtCol Begin, the XO.
- rr. Later, the 12thMCD SgtMaj Archumbault talked to Sgt Brito about why he had taken the morning off. Sgt Brito said GySgt Hernandez-Garcia allowed him to take the morning off. SgtMaj Archumbault told Sgt Brito that he was manipulating the system and that he didn't deserve to take leave. Sgt Brito was allowed to take leave when he was at RS Orange pending charges. SgtMaj Archumbault told Sgt Brito that "at 12MCD, you don't even have a real job, so you should be denied leave." The SgtMaj Archumbault pointed

out that if they deny Sgt Brito's leave, his request must not mean that they would approve his leave. The SgtMaj Archumbault said he was not scared of Sgt Brito's request must and that Sgt Brito is lying about his mom. The SgtMaj told Sgt Brito that he tarnished the reputation of RS Orange. GySgt Hernandez-Garcia, Sgt Brito's SNCOIC, was in the office when SgtMaj Archumbault said this.

ss. Later that day, 12MCD did give Sgt Brito 2 days leave to go see his mom.

tt. The next week, Sgt Brito was sitting in the S-4 section of 12th MCD, and the admin chief came in and asked Sgt Brito if he remembered him. The admin chief's name was MSgt Olivera. He said he visited Sgt Brito in the brig and Sgt Brito blew him off and had a "big hissyfit." In front of a Cpl Gilmore and LCpl Platte, MSgt Olivera asked Sgt Brito if he was going to still have "that hissyfit?" The MSgt asked Sgt Brito if they were going to have any problems with Sgt Brito here.

3. Discussion.

WHETHER ARTICLE 13 IS VIOLATED WHEN A MARINE CORPS STAFF SERGEANT IS TRANSFERRED AMONG COMMANDS, GIVEN MENIAL ASSIGNMENTS, ORDERED TO REPORT TO A MARINE JUNIOR TO HIM IN RANK, DEFAMED AND SLANDERED BY SENIOR COMMAND MEMBERS, HAS CHARGES REFERRED TO COURT-MARTIAL FOR WEARING AWARDS THAT HE IS ENTITLED TO WEAR, HAS HIS PERSONAL TELEPHONE UNLAWFULLY SEIZED, SEARCHED AND EVIDENCE OF MISCONDUCT DESTROYED.; ORDERED TO NOT ASSOCIATED WITH HIS FIANCEE AND BY EXTENSION NOT GO TO HIS PLACE OF RESIDENCE WITHOUT BEING PROVIDED ALTERNATIVE QUARTERS; AND THEN JAILED FOR 83 DAYS FOR VIOLATING AN *AB INITIO* UNLAWFUL ORDER?

Article 13, UCMJ states that "No person, while being held for trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the

circumstances required to insure his presence, but he may be subjected to minor punishment during that period for infractions of discipline.” §813 U.C.M.J. Manual for Courts-Martial (2008 ed.).

Pretrial punishment includes public denunciation and degradation of an accused servicemember. *United States v. Stringer*, 55 M.J. 92, 94 (C.A.A.F. 2001). *Stringer* recognized the broad authority of the judge to order administrative credit against adjudged confinement and to fashion other appropriate remedies when an accused is illegally punished. The accused in *Stringer* was humiliated before his command when he was singled out in front of a formation and subjected to further humiliation when his unit sang a cadence about him going to jail. The military judge awarded day for day credit for everyday of humiliating acts against the accused. And in a unique departure from common legal remedies, the judge ordered that the SJA publish an article in the base newspaper discussing the impropriety of illegal pretrial punishment. *Id.* at 93.

The discretion of the military judge to fashion an appropriate remedy based on the particular facts of the illegal punishment was endorsed the C.A.A.F. in *U.S. v. Fulton*, when the court declared that the military judge erred when he failed to consider dismissal as an available option, but that the error was harmless because the judge considered remedies that went beyond those finally granted; meaning that even if the judge had not erred in not considering dismissal, he would not have granted a dismissal in the case. 5 M.J. 88, 89-90 (C.A.A.F. 2001). *Fulton*, therefore, stands for the proposition that Article 13 violations can result in dismissal of a case. *Id.*

The court in *Fulton* did not take a position on the propriety of the remedy fashioned by the judge. They merely declined to reverse because they recognized that the judge was aware of

a number of remedies from which to choose. And the one he chose was not the most drastic available to him. What the court did not do is state that dismissal would not be appropriate. In fact, they found that dismissal is an available remedy that is appropriate and should be considered depending on the facts. *Id.*

The accused in *Fulton* was subjected to abusive, sexually explicit language, threats of sexual assault and threats of rape and was forced to give a guard his fiancée's telephone number. Sgt Brito was not subjected to sexually explicit threats. He was, however, humiliated harassed, and forced to give up his telephone which included messages and information that is privileged. It included his fiancée's number and other personal information. He was illegally ordered not to have contact with any person who had ever been to boot camp which included his fiancée- Karen Walker- who lived in the same apartment as he. Upon receiving the unlawful order, Sgt Brito began to make plans to move. The command discovered that he had contact with Karen Walker and confined him because he allegedly violated the illegal order. Before and after his confinement, he has been moved from unit to unit, defamed, criticized and humiliated at every unit he arrived at because his receiving units were informed that he a bad Marine or a problem Marine.

Sgt Brito was also denied his right to take leave to visit his ill mother, he had to undergo humiliating treatment as a result of his command's intentional desire to undermine this Marine's reputation and to damage his ability to defend himself. He was accused of lying about his mother's illness and to defend himself while he had to deal with the stress of worrying about his ill mother.

One of the reasons the command sought to destroy Sgt Brito's reputation and to humiliate him is because he was a percipient witness to genuine misconduct by senior members of his

command. By putting Brito away, Brito's credibility is destroyed and statements he makes become automatically suspect as pretextual and appear made to shift the focus away from Brito.

The command's retaliatory conduct to silence Brito, their humiliation of him and denial of a fundamental right to leave amount to an unconscionable abuse of power that is punishable under Marine Corps Order 1700.28 which prohibits hazing: "Hazing is defined as any conduct whereby one military member, regardless of Service or rank, causes another military member, regardless of Service or rank, to suffer or be exposed to an activity which is cruel, abusive, humiliating, or oppressive." Paragraph 3.a., MCO 1700.28.

A question that demands an answer is would another Marine, not accused of violations of the UCMJ, not have a legitimate complaint of hazing against those persons who subject him to the same treatment as that experienced by Sgt Brito? Under MCO 1700.28:

Any violation, attempted violation, or solicitation of another to violate this order, subjects involved members to disciplinary action under Article 92 of the Uniform Code of Military Justice (UCMJ). This Order does not prevent charging those who have engaged in acts of hazing under other applicable UCMJ articles to include, but not limited to Article 80 (attempts), Article 81 (conspiracy), Article 93 (cruelty and maltreatment), Article 124 (maiming), Article 128 (assault), Article 133 (conduct unbecoming an officer and gentleman) and Article 134 (indecent assault, drunk and disorderly conduct, and/or solicitation). This Order is a lawful general order and is effective immediately without further implementation.

Id. at paragraph 4.

The conduct Sgt Brito was subjected to clearly falls within the prohibited conduct outlined by the Marine Corps Order proscribing hazing and establishing that such conduct shall be punishable under the UCMJ. Such conduct also falls within the rubric of conduct prohibited by Article 13 of the U.C.M.J. *See also United States v. Melson*, 2007 CCA LEXIS 372, 11-12 (A.F.C.C.A. Sept. 14, 2007); *United States v Villamil-Perez*, (1989, ACMR) 29 MJ 524, petition

for review filed (1990, CMA) 30 MJ 117 and affd (1991, CMA) 32 M.J. 341 (Prohibition is not just limited to members of the chain of command).

In addition to a clear articulation within a General order prohibiting conduct that seeks to demean and humiliate, the conduct complained of here also factually resembles similar conduct in other cases alleging Article 13 violations. Like *Stringer*, Brito has been publicly humiliated by being called a bad Marine by his District XO. He was demeaned and made to feel worthless when he was informally moved four times from one command to another, without official orders. Receiving commands were informed that he is essentially a criminal so that he would be assigned menial and demeaning duties and tasks like washing car windows. Finally, like *Stringer*, he was confined after allegedly violating an unconstitutional, unlawful and overbroad Protective Military Order.² In addition to prohibiting contact with his attorneys, the order made going home and associating with his fiancée, a woman who is not an accuser and who was only made a witness pretextually by the command to give validity to an *ab initio* invalid MPO. But while *Stringer* served a mere 2 days, **Sgt Brito served 83 days in days, punishment for going home.**

A reading of the facts in *Stringer* leaves no doubt that the verbal abuse he was subjected to is humiliating and demeaning. The illegal conduct –uttered words- perpetrated against *Stringer*, however, was by immature and junior prison brig guards. In this case on the other hand, the conduct was perpetrated by officers and very senior Staff Non-Commissioned Officers, members of the Convening Authorities staff (SgtMaj, XO, RS CO, etc.). The bad acts in

² The PMO prohibited contact with anyone who had ever attended boot camp. Both civilian and detailed counsel on this case are former enlisted Marines. A literal reading of the PMO –the defense is unaware of any other way to read military orders- makes contact between Sgt Brito and his defense counsel an illegal act.

Stringer resonate with the immaturity of the actors, and share a common thread with conduct that sometimes takes place within the ranks among junior service members. In this case the conduct demonstrates an invidious purpose that deliberately and intentionally sought to punish and retaliate against Sgt Brito. The conduct is more appalling than that undertaken against the accused in *Stringer* because it was carried out by senior members of a recruiting command whose entire professional existence seeks to convince young men and women to join the Marine Corps by presumably setting an unassailable professional example.³

The abuses by this particular command and specifically by its senior officers and SNCOs merits a judicial response calculated to decisively and unequivocally reject such extrajudicial punishment, that vitiates Sgt Brito's rights, deters future criminal violations of General Orders that proscribe such conduct, and perhaps, most importantly, rebuilds the public's confidence in a recruiting command within an organization that prides itself on being better than its sister services.

Dismissal is an Appropriate Remedy for the Illegal Pretrial Punishment in this Case.

Where no other remedy is appropriate, a military judge may, in the interests of justice, dismiss charges because of unlawful pretrial punishment. *Fulton*, 55 M.J. 89-90. Sgt Brito has had his privacy invaded by the taking of his personal telephone without authorization. When the phone was finally returned because of the demands of his lawyers, it was returned without the SIM card which contained photos, messages, contacts, and other information that no one had a right to access. One of the photos is of Sgt Maj Gonzalez kissing a LCpl Angel. That evidence is destroyed. The most obvious explanation is that SgtMaj Gonzalez, who coordinated the confinement and illegally seized the phone, took the SIM card to destroy any evidence of his

³ Sgt Brito was, until he was relieved, the top recruiter in the district year after year.

own misconduct.

In addition to the illegal pretrial punishment, Sgt Brito was illegally barred from going home and from associating with his fiancée. He was passed from one command to another, assigned menial duties, and humiliated. And finally, he was imprisoned for 83 days without any facts to support the basis for pretrial confinement under R.C.M. 305, Manual for Courts-Martial (2008 ed.). Confinement credit will not ameliorate the harm suffered because credit assumes Sgt Brito is going to prison. Assuming *arguendo* that he is found guilty and he receives a sentence that includes confinement, the credit would only be of value if he were sentenced to a sentence greater than 83 days. Merely awarding credit rewards the offenders by failing to punish it. Such an outcome would clearly be unjust, would fail to deter similar future actions and would be inadequate. Dismissal, therefore, is an appropriate remedy. It makes Sgt Brito whole and sends a message to the persons responsible that their illegal conduct did not and will not pass without recourse.

Even if Sgt Brito is guilty of the offenses charged. He has already been substantially punished. He has been imprisoned, humiliated, demeaned, lost his business and his apartment when he was confined, suffered the anguish of knowing his mother is gravely ill and not being permitted to go see her while being accused of lying about the matter. A remedy of credit simply fails to vindicate Sgt Brito's rights or to repair the harm he suffered. Accordingly, because any other remedy would insufficient, an appropriate remedy in this case is dismissal of the charges.

4. Relief Requested. The defense respectfully requests that all charges against Sgt Brito be dismissed with prejudice. Although dismissal of charges does not necessarily flow from every constitutional violation of an accused's right. *U.S. v. Fulton*, endorsed dismissal when no

other remedy is appropriate. 55 M.J. at 89-90. When considering dismissal the court is counseled to consider society's interest in the administration of criminal justice. The remedy should be tailored so it does not unnecessarily infringe on competing interests. *Id.* (Quoting *United States v. Morrison*, 449 U.S. 361, 364, 66 L. Ed. 2d 564, 101 S. Ct. 665 (1981)). The defense during this motion will submit evidence that proves that the government has no factual basis for the most serious charges that remain on the charge sheet after. Without any genuine public or military interest remaining in pursuit of the remaining charges, the remedy called for should be dismissal of the charges with prejudice.

If all charges are not dismissed, the defense requests that the court reserve issuing a remedy until the conclusion of the sentencing phase, if there is one, hold a post trial 39a to hear arguments on what remedy the court should issue based on its findings in this motion and the sentence adjudged.

5. Evidence and Burden of Proof.

a. The defense requests physical production of the following witnesses by the Government in support of its motion (contact information for all witnesses is in the possession of the Government and can be found using NMCI email searches or Marine Online):

- a) MSgt James Byer
- b) Maj Michael W. Stahle
- c) Karen Walker
- d) LtCol Marc Begin (12MCD, XO)
- e) GySgt Marvin Hernandez-Garcia (12MCD, S-4)
- f) MSgt Olivera (12MCD, S-1)
- g) Cpl Gilmore (12MCD, S-4)

- h) LCpl Laura Platte (12MCD, S-4)
- i) SgtMaj Lawrence Archumbault (12MCD)
- j) Maj Matthew P. Zummo (RS Orange)
- k) Capt Michael Digangi (RS Orange)
- l) GySgt Joseph Aguliar (RS Orange)
- m) SSgt Dwight Amantine (HQSPT BN, MCB Camp Pendleton)
- n) SgtMaj Jeff T. McKeone (I&I 5/14)
- o) Maj Chad A. Dodd (12MCD, S-4)
- p) SgtMaj Mark Gonzalez

6. Argument. The defense desires oral argument.

By: /S/
Haytham Faraj
Attorney for Plaintiff
1800 Diagonal Road
Suite 210
Alexandria, VA 2314
Tel 888-970-0005
Fax 202-280-1039
Email: Haytham@puckettfaraj.com

26 September 2010
Date

CERTIFICATE OF SERVICE

I certify that an electronic copy of this document was served upon government counsel on
26 September 2010.

By: /S/

Haytham Faraj
Attorney for Plaintiff
1800 Diagonal Road
Suite 210
Alexandria, VA 2314
Tel 888-970-0005
Fax 202-280-1039
Email: Haytham@puckettfaraj.com

26 September 2010

Date