

**NAVY-MARINE CORPS TRIAL JUDICIARY
WESTERN JUDICIAL CIRCUIT**

UNITED STATES)

v.)

AARON V. WYLDE)
XXX XX 0964)
PRIVATE FIRST CLASS)
U.S. MARINE CORPS)

GENERAL COURT-MARTIAL

DEFENSE MOTION IN LIMINE

PROSCRIBE REFERENCE TO PFC
WILEY

18 October 2010

1. Nature of Motion.

This is a motion in limine to prohibit the introduction of any evidence seeking to connect any mental or medical condition purportedly suffered by PFC Michael D. Wiley to PFC Wylde unless the government first establishes that the purported condition was the direct result of actions or conduct of PFC Wylde, and the legal relevance of such evidence.

Based on statements and conduct of prosecutors, the defense believes that the government will seek to introduce evidence of PFC Wiley's medical or mental condition. Such evidence is irrelevant under M.R.E. 401 during the findings phase. Moreover any tangential relevancy to the government's narrative should be precluded based on an M.R.E. 403 balancing test because the danger of unfair prejudice substantially outweighs the probative value of the proffered evidence. Additionally, the evidence should be proscribed during sentencing unless the Government establishes that the proffered evidence is the direct or proximate cause of actions or conduct by PFC Wylde. Even if the Government successfully establishes a foundation for the proffered evidence, this court should preclude its admission based on an M.R.E. 403 analysis.

2. Statement of the Law.

Under Mil. R. Evid 104(a) When the relevancy of evidence depends upon the fulfillment of a

condition of fact, the military judge shall admit it upon the introduction of evidence sufficient to support a finding of the fulfillment of the condition. M.R.E. 701 limits lay witness opinion testimony to perceptions of the witness. A lay witness may not testify as to scientific, technical or other specialized knowledge.

3. Relief Requested.

Pursuant to M.R.E. 104(b), 701, 401 and 403, the accused, by and through counsel requests that this court exclude any reference as to the medical or mental condition of PFC Wiley unless a foundation and relevance of the evidence is first established.

4. Argument. Requested only if the government opposes this motion.

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19 October 2010
Date

CERTIFICATE OF SERVICE

I certify that a copy of this document was served upon government counsel on 18

October 2010.

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