

## CHARGE SHEET

### I. PERSONAL DATA

1. NAME OF ACCUSED ( <i>Last, First, MI</i> ) EICKENHORST, David I.		2. SSN 339 60 3370	3. GRADE OR RANK Maj	4. PAY GRADE O-4
5. UNIT OR ORGANIZATION Marine Wing Support Squadron 371 Marine Wing Support Group 37 Third Marine Aircraft Wing Marine Corps Air Station Miramar, California			6. CURRENT SERVICE	
			a. INITIAL DATE 27 Sep 01	b. TERM Indef
7. PAY PER MONTH		8. NATURE OF RESTRAINT OF ACCUSED None	9. DATE(S) IMPOSED N/A	
a. BASIC \$6,851.10	b. SEA/FOREIGN DUTY None			

### II. CHARGES AND SPECIFICATIONS

10. **Charge I:** Violation of the UCMJ, Article 128

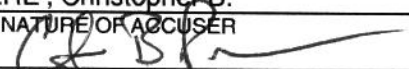
Specification: In that Major David I. Eickenhorst, U.S. Marine Corps, Marine Wing Support Squadron 371, Marine Wing Support Group 37, 3d Marine Aircraft Wing, on active duty, did, at or near Camp Dwyer, Afghanistan, on or about 18 March 2011, commit an assault upon SSgt Christopher Wilson by gesturing toward him with a dangerous weapon likely to produce death or grievous bodily harm, to wit: a loaded firearm.

**Charge II:** Violation of the UCMJ, Article 134

Specification: In that Major David I. Eickenhorst, U.S. Marine Corps, Marine Wing Support Squadron 371, Marine Wing Support Group 37, 3d Marine Aircraft Wing, on active duty, did, at or near Camp Dwyer, Afghanistan, on or about 18 March 2011, wrongfully communicate to SSgt Christopher Wilson a threat to injure him, to wit: Major Eickenhorst said, "you're fucking up" then unholstered his weapon and said, "want to work on an early retirement?" and that under the circumstances, the accused's conduct was to the prejudice of good order and discipline in the armed forces.

*or words to that effect,*  
ABH  
2010802

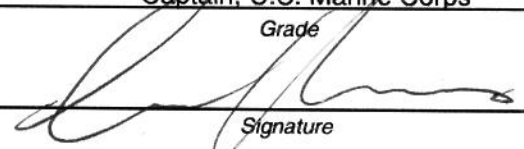
### III. PREFERRAL

11a. NAME OF ACCUSER ( <i>Last, First, MI</i> ) PERE', Christopher B.	b. GRADE GySgt	c. ORGANIZATION OF ACCUSER HQHQRON, MCAS Miramar, CA
d. SIGNATURE OF ACCUSER 		e. DATE 20110714

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 14<sup>th</sup> day of July 2011, and signed the foregoing charges and specifications under oath that he/~~she~~ is a person subject to the Uniform Code of Military Justice and that he/~~she~~ either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/~~her~~ knowledge and belief.

\_\_\_\_\_  
A. B. HOLMES  
*Typed Name of Officer*

\_\_\_\_\_  
Captain, U.S. Marine Corps  
*Grade*

\_\_\_\_\_  
  
*Signature*

\_\_\_\_\_  
HQHQRON, MCAS Miramar, CA  
*Organization of Officer*

\_\_\_\_\_  
Judge Advocate  
*Official Capacity to Administer Oath*  
(See R.C.M 307(b)- must be commissioned officer)

# ORIGINAL

0001

12. On 19 July, 2011, the accused was informed of the charges against him/hër and of the name(s) of the accuser(s) known to me (See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

T. A. PERRY  
*Typed Name of Immediate Commander*

MWSG-37, 3d MAW, MCAS Miramar, CA  
*Organization of Immediate Commander*

Major, U.S. Marine Corps

T. A. PERRY  
*Signature*

**IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY**

13. The sworn charges were received at 1426 hours, 19 July 2011 at MWSG-37, 3d MAW  
*Designation of Command or*

*Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)*

For The 1 Commanding Officer  
Legal Officer  
*Official Capacity of Officer Signing*

T. A. PERRY  
*Typed Name of Officer*

Major, U.S. Marine Corps

T. A. PERRY  
*Signature*

**V. REFERRAL; SERVICE OF CHARGES**

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY 3d Marine Aircraft Wing b. PLACE San Diego, CA c. DATE NOV 23 2011

Referred for trial to the General court-martial convened by GCMCO #1-09  
dated 19 November 2009, subject to the following instructions: None.

by //////////////////////////////////// of  
*Command or Order*

A. W. O'DONNELL, JR.  
*Typed Name of Officer*

Commanding General  
*Official Capacity of Officer Signing*

Major General, U.S. Marine Corps

A. W. O'DONNELL, JR.  
*Signature*

15. On \_\_\_\_\_, 2011, I (caused to be) served a copy hereof on (each of) the above named accused.

K. D. SMITH  
*Typed Name of Trial Counsel*

Major, U.S. Marine Corps  
*Grade or Rank of Trial Counsel*

K. D. SMITH  
*Signature*

FOOTNOTES: 1-When an appropriate Commander signs personally, inapplicable words are stricken.  
2-See R.C.M. 601(e) concerning instructions. If none, so state.

ORIGINAL

## CHARGE SHEET

### I. PERSONAL DATA

1. NAME OF ACCUSED ( <i>Last, First, MI</i> ) EICKENHORST, David I.		2. SSN 339 60 3370	3. GRADE OR RANK Maj	4. PAY GRADE O-4
5. UNIT OR ORGANIZATION Marine Wing Support Squadron 371, Marine Wing Support Group 37, Third Marine Aircraft Wing, Marine Corps Air Station Miramar, California		DOB: 19 Dec 66	6. CURRENT SERVICE	
			a. INITIAL DATE 27 Sep 01	b. TERM Indef
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED	
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL	9. DATE(S) IMPOSED	
\$6,851.10	None	\$6,851.10	None N/A	

### II. CHARGES AND SPECIFICATIONS

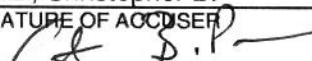
**10. Additional Charge I:** Violation of the UCMJ, Article 93

Specification: In that Major David I. Eickenhorst, U.S. Marine Corps, Marine Wing Support Squadron 371, Marine Wing Support Group 37, Third Marine Aircraft Wing, on active duty, did, at or near Camp Dwyer, Afghanistan, on or about 18 March 2011, maltreat SSgt Christopher Wilson, U.S. Marine Corps, a person subject to his orders, by unholstering his weapon and saying to the said SSgt Wilson "you're fucking up," and "want to work on an early retirement," or words to that effect.

**Additional Charge II:** Violation of the UCMJ, Article 134

Specification: In that Major David I. Eickenhorst, U.S. Marine Corps, Marine Wing Support Squadron 371, Marine Wing Support Group 37, Third Marine Aircraft Wing, on active duty, did, at or near Camp Dwyer, Afghanistan, on or about 18 March 2011, wrongfully and recklessly engage in conduct, to wit: unholstering and brandishing a loaded firearm in the presence of SSgt Christopher Wilson, U.S. Marine Corps, conduct likely to cause death or grievous bodily harm.

### III. PREFERRAL

11a. NAME OF ACCUSER ( <i>Last, First, MI</i> ) PERE', Christopher B.	b. GRADE GySgt	c. ORGANIZATION OF ACCUSER HQHQRON, MCAS Miramar, CA
d. SIGNATURE OF ACCUSER 	e. DATE <sup>as</sup> 27 26 Sep 11	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 27 day of September 2011, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

K. D. SMITH

*Typed Name of Officer*

HQHQRON, MCAS Miramar, CA

*Organization of Officer*

Major, U.S. Marine Corps

*Grade*

Judge Advocate

*Official Capacity to Administer Oath*  
(See R.C.M 307(b)- must be commissioned officer)

*Signature*

# ORIGINAL

12. On 5 OCTOBER, 2011, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

T. A. PERRY  
Typed Name of Immediate Commander

MWSG-37, 3d MAW, MCAS Miramar, CA  
Organization of Immediate Commander

Major, U.S. Marine Corps

Grade  
T. A. Perry  
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13. The sworn charges were received at 0823 hours, SEPT. 28, 2011 at MWSG-37, 3d MAW  
Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

For The 1 Commanding General  
Legal Officer  
Official Capacity of Officer Signing

T. A. PERRY  
Typed Name of Officer

Major, U.S. Marine Corps

Grade  
T. A. Perry  
Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY 3d Marine Aircraft Wing b. PLACE San Diego, CA c. DATE NOV 23 2011

Referred for trial to the General court-martial convened by GCMCO #1-09  
dated 19 November 2009, subject to the following instructions: To be tried in conjunction with the  
charges preferred on 14 July 2011.

by //////////////////////////////////// of  
Command or Order

A. W. O'DONNELL, JR.  
Typed Name of Officer

Commanding General  
Official Capacity of Officer Signing

Major General, U.S. Marine Corps

Grade

A. W. O'Donnell, Jr.  
Signature

15. On \_\_\_\_\_, 2011, I (caused to be) served a copy hereof on (each of) the above named accused.

K. D. SMITH  
Typed Name of Trial Counsel

Major, U.S. Marine Corps  
Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1-When an appropriate Commander signs personally, inapplicable words are stricken.  
2-See R.C.M. 601(e) concerning instructions. If none, so state.

ORIGINAL



# UNITED STATES MARINE CORPS

3D MARINE AIRCRAFT WING  
MARINE CORPS AIR STATION MIRAMAR  
PO BOX 452038  
SAN DIEGO CA 92145-2038

IN REPLY REFER TO:

5800

SJA

**NOV 23 2011**

From: Staff Judge Advocate  
To: Commanding General, 3d Marine Aircraft Wing  
Subj: PRETRIAL ADVICE IN THE CASE OF UNITED STATES V. MAJOR DAVID I. EICKENHORST, XXX XX 3370/1302, USMC

Ref: (a) Article 32, UCMJ  
(b) Article 33, UCMJ  
(c) Article 34, UCMJ  
(d) RCM 202, MCM, United States (2008 ed.)  
(e) RCM 405, MCM, United States (2008 ed.)  
(f) RCM 406, MCM, United States (2008 ed.)  
(g) Judge Advocate General Instruction 5800.7D, Manual of the Judge Advocate General (JAGMAN)

Encl: (1) Charge Sheet dtd 14 Jul 11  
(2) Additional Charge Sheet dtd 27 Sep 11  
(3) Article 32 Appointing Order dtd 17 Aug 11  
(4) Investigating Officer Report dtd 17 Oct 11  
(5) 3D MAW GCMCO #1-09 of 19 Nov 09

1. Major David I. Eickenhorst, USMC, the accused, is assigned to Marine Wing Support Squadron 371, Marine Wing Support Group 37, 3d Marine Aircraft Wing and is stationed at Marine Corps Air Station Yuma, Arizona. The charges against the him are contained in enclosures (1) and (2). Enclosure (3) is a letter from the Commanding General, 3d Marine Aircraft Wing directing an Article 32, UCMJ, pretrial investigation into the charges and specifications. The investigation was assigned to Major Hugh J. Redman, USMC, on 17 Aug 11. Enclosure (4) is the Investigating Officer's Report.

2. **Analysis of the Charges and Specifications:** The accused is charged in enclosures (1) and (2) with the following violations of the Uniform Code of Military Justice (UCMJ): one specification under Article 93, UCMJ, cruelty and maltreatment, one specification under Article 128, UCMJ, assault, aggravated - with a dangerous weapon, one specification under Article 134, UCMJ, communicating a threat, and one specification under Article 134, UCMJ, reckless endangerment.

3. **Sufficiency of the Charges and Specifications:** I have reviewed the charges and specifications contained in enclosures (1) and (2). Per references (a) through (g), my advice is that:

a. The charges and specifications allege offenses under the Uniform Code of Military Justice.

Subj: PRETRIAL ADVICE IN THE CASE OF UNITED STATES V. MAJOR DAVID I. EICKENHORST, XXX XX 3370/1302, USMC

b. The charges and specifications have been investigated properly pursuant to references (a) and (e); and, the offenses are supported by the evidence contained in enclosure (4).

c. A general court-martial would have jurisdiction over the accused and the offenses alleged.

d. I concur with the Investigating Officer's findings but recommend that the charges be referred to a general court martial.

4. **Recommended disposition of the Charges and Specifications:**

a. The Investigating Officer found that there were reasonable grounds to believe the accused committed the offenses alleged in the charges and specifications. Further, he recommended that charges and specifications for reckless endangerment and dereliction of duty be referred to Commanding General's Non-judicial punishment for final disposition, enclosure (4).

b. I agree with the Investigating Officer that there are reasonable grounds to believe the accused committed the charged offenses alleged in enclosures (1) and (2). However, I disagree with his recommendation to dispose of these charges at Commanding General's Non-judicial Punishment. I believe the serious nature of these charges warrants referral of all charges and specifications to a general court-martial.

5. **Action:** If you agree, you may refer the charges and specifications to a general court-martial convened by enclosure (5) by signing the referral block (Part V) of the charge sheet in enclosures (1) and (2).

  
PHILIP J. BETZ JR