



UNITED STATES MARINE CORPS
2D MARINE AIRCRAFT WING (FORWARD)
II MARINE EXPEDITIONARY FORCE (FORWARD)
UNIT 78091
FPO AE 09510-8091

IN REPLY REFER TO:

5800

CG

11 APR 2011

FIRST ENDORSEMENT on LtCol Van Nest's ltr 5830 of 22 Mar 11

From: Commanding General, 2d Marine Aircraft Wing (Forward)

To: Commanding General, 3d Marine Aircraft Wing

Subj: COMMAND INVESTIGATION INTO THE FACTS AND CIRCUMSTANCES
SURROUNDING THE ALTERCATION BETWEEN MAJOR DAVID I.
EICKENHORST, USMC, AND STAFF SERGEANT CHRISTOPHER N.
WILSON, USMC, ON OR ABOUT 18 MARCH 2011

Ref: (d) SJA RC/SW E-mail of 6 Apr 11

1. Readdressed and forwarded.

2. After carefully reviewing the subject command investigation, the findings of fact, opinions, and recommendations of the investigating officer are approved. Major Eikenhorst's actions are inexcusable, potentially criminal, and demonstrate extremely poor judgment and leadership on his part, regardless of his intent.

3. After these events were reported, I directed Major Eikenhorst's early redeployment from theater. Major Eikenhorst as well as his unit, Marine Wing Support Squadron 373, have left Afghanistan and are no longer under the authority of 2d Marine Aircraft Wing (Forward) (2d MAW(FWD)). Therefore, I am forwarding this command investigation to the Commanding General, 3d Marine Aircraft Wing (3d MAW) for his action. Per reference (d), the Commanding General, Regional Command Southwest, is aware of Major Eikenhorst's actions and concurs with the decision to transfer this case to 3d MAW for disposition.

4. The point of contact is Major Chris W. Pehrson, USMC, 2d MAW(FWD) Staff Judge Advocate, at DSN (318) 357-3650.


G. M. WALTERS

Copy to:
CO, MWSS-373
SJA, RC/SW
SJA, MARCENT
File



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IN REPLY REFER TO:
5830
RED CELL
22 Mar 11

From: Lieutenant Colonel Michael K. Van Nest 3385/7532
To: Commanding General, 2d Marine Aircraft Wing (Forward)

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Ref: (a) JAGINST 5800.7E, Manuel of the Judge Advocate General
(b) RCT-1 FRAGO 001-11 Camp Dwyer AT-FP Policy
(c) MCRP 3-01B, Pistol Marksmanship Manual

Encl: (1) Appointing Order
(2) Maj Eickenhorst's Rights Acknowledgement
(3) Maj Eickenhorst's Privacy Statement
(4) SSgt Wilson's Privacy Statement
(5) IO summary of interview with MWSS CO, LtCol Fahy
(6) 21 Jul 10 written counseling from LtCol Fahy to Maj
Eickenhorst
(7) 24 Aug 10 written counseling from LtCol Fahy to Maj
Eickenhorst
(8) SSgt Wilson's statement
(9) IO summary of interview with SSgt Wilson
(10) Sgt Rich's statement
(11) IO summary of interview with Sgt Rich
(12) Sgt Guerrero's statement
(13) IO summary of interview with Sgt Guerrero
(14) Capt Dimoh's statement
(15) IO summary of interview with Capt Dimoh
(16) Capt Nicol's statement
(17) CWO2 Szewczyk's statement
(18) IO summary of interview with CWO2 Szewczyk
(19) MSgt Crowley's statement
(20) LCdr Haines's statement
(21) Power Point Diagram of the MWSS 373 FOB Dwyer COC
(22) Picture of work area in the MWSS 373 FOB Dwyer COC

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Preliminary Statement

1. In accordance with reference (a), all reasonable evidence and enclosures were collected and each directive of the convening authority has been properly met. Major Chris Pehrson, 2d Marine Aircraft Wing (Forward) (2d MAW (FWD)) Staff Judge Advocate, was consulted over the course of this command investigation.
2. The Command Investigation (CI) was initiated by the Commanding General (CG) 2d MAW(FWD) into the allegation that at approximately 1200 on 18 March 2011, Major (Maj) David Eickenhorst, Marine Wing Support Squadron 373 (MWSS 373) Detachment (Det) Officer in Charge (OIC) Forward Operating Base (FOB) Dwyer, Afghanistan, un-holstered his weapon and made threatening remarks to Staff Sergeant (SSgt) Christopher Wilson, Expeditionary Airfield (EAF) Staff Noncommissioned Officer in Charge (SNCOIC) MWSS 373 DET FOB Dwyer in the squadron's FOB Dwyer combat operations center (COC).
3. Due to Maj Eickenhorst exercising his right to remain silent (Encl 2), all facts, opinions and recommendations provided are based on information collected from the complainant, SSgt Wilson, the witnesses to the incident, the witness to the medical evaluation, and members of the MWSS 373 chain of command.
4. There is one inconsistency between the complainant, SSgt Wilson, and the two witnesses, Sergeants (Sgts) Rich and Guerrero, which has to do with the direction in which the pistol was pointed. SSgt Wilson clearly states that Maj Eickenhorst un-holstered his pistol and pointed it down at a 45 degree angle while the two Sgts stated that as the weapon was drawn the pistol was initially raised in a more vertical profile (below the shoulder) before being directed at the floor. All three state that the weapon was pointed in a safe direction and never directly at anyone.

Findings of Fact

1. Maj Eickenhorst joined MWSS 373 in Apr 2010 as an individual augment from MWSS 371. [Encl (5)]
2. Maj Eickenhorst was the MWSS 373 Operations Officer from April to August 2010. [Encl (5)]

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3. Maj Eickenhorst demonstrated a lack of attention to detail, had poor multi-tasking skills and had difficulty dealing with stress during the pre-deployment training period (PTP). [Encl (5), (6), (7)]
4. Maj Eickenhorst was verbally counseled by his Commanding Officer (CO), LtCol Fahy, for verbal confrontations he had with subordinate officers and unprofessional, inappropriate behavior towards subordinates. [Encl (5)]
5. LtCol Fahey gave Maj Eickenhorst two written counselings, one on 21 July 10 and the other on 24 August 10, for lack of performance. [Encl (5), (6), (7)]
6. The second written counseling, dated 24 August 10, resulted in Maj Eickenhorst being removed as the Operations Officer (OPSO) for the squadron and to his being reassigned as the Det OIC for FOB Dwyer. [Encl (5), (7)]
7. On 6 November 10, Maj Eickenhorst was recalled from FOB Dwyer to Camp Leatherneck by his CO in order to be counseled for his lack of communication to higher and his ability to effectively oversee the detachment. [Encl (5)]
8. SSgt Christopher N. Wilson is the MWSS 373 Det FOB Dwyer EAF Section SNCOIC. His reporting senior (RS) is Capt Dimoh and his reviewing officer (RO) is Maj Eickenhorst. [Encl (9)]
9. As SSgt Wilson's RS, Capt Dimoh stated that the SSgt was a good Marine and his last FITREP was above average. [Encl 15]
10. SSgt Wilson is scheduled to retire Aug 2011. [Encl (9)]
11. Sgt Rich is an EAF Systems Technician (MOS 7011) for MWSS 373 Det FOB Dwyer. His main duty is the quality assurance (QA) noncommissioned officer (NCO) for the EAF section. SSgt Wilson is his SNCOIC. [Encl (11)]
12. Sgt Guerrero is an EAF Systems Technician (MOS 7011) for MWSS 373 Det FOB Dwyer. His main duty is serving as the runway supervisor and collateral duty inspector (CDI) for the EAF section. SSgt Wilson is his SNCOIC. [Encl (13)]
13. On or about 1200, 18 March 11, Maj Eickhenhorst was in the MWSS 373 Det FOB Dwyer COC working on a power point presentation

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that pertained to an upcoming airfield matting project. [Encl
(10), (16)]

14. Capt Dimoh, the Detachment Executive Officer (XO) MWSS 373
FOB Dwyer, was seated to his left at a computer. He was working
on FITREPs and listening to music through ear phones. [Encl
(5), (8), (9), (11), (13), (14), (15), (16)]

15. Maj Eickenhorst motioned to Capt Dimoh to get his attention
in order to tell him that the measurements for an upcoming
airfield matting project had been off and SSgt Wilson had
screwed up again. [Encl (14)]

16. Maj Eickenhorst requested some information from SSgt
Wilson, EAF SNCOIC, on the length of matting. The SSgt did not
have the information and departed for his work space to retrieve
the correct data. [Encl (5), (8), (9), (10), (14), (16)]

17. After the SSgt departed to retrieve the data, Sgts Rich and
Guerrero entered the COC in order to store their weapons for
chow. Maj Eickenhorst called both Sgts over to ask for the same
information that SSgt Wilson left to retrieve. [Encl (5), (8),
(10), (12), (14)]

18. SSgt Wilson returned with the information shortly after the
two Sgts arrived. [Encl (5), (8), (10), (12), (14)]

19. SSgt Wilson was standing to right of Maj Eickenhort with
the two Sgts standing behind and to the right of him. Capt
Dimoh was sitting to his left with his earphones on and working
at a computer. [Encl (5), (8), (11), (12), (14), (21), (22)]

20. Sgt Rich then provided an updated number for the length of
the matting. The SSgt subsequently provided a different number.
The SSgt and the two Sgts then conferred and confirmed that Sgt
Rich's information was the correct number. [Encl (5), (8),
(10), (12), (16)]

21. During this exchange Maj Eickenhorst got visibly angry.
Looking at SSgt Wilson, the Maj drew his pistol and pointed it
down at a 45 degree angle and stated (paraphrasing) "Do you want
to start retirement early?" [Encl (5), (8), (9), (10), (11),
(12), (13), (16), (19)]

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22. SSgt Wilson replied, "Sir I would prefer that you not shoot me." [Encl (5), (8), (9), (10), (11), (12), (13), (16)]

23. Maj Eickenhorst then returned his pistol to the holster and stated (paraphrasing), "All I have to do is the paper work." [Encl (5), (8), (16)]

24. Per reference (b), Marines will carry their weapons in a condition three status (magazine inserted, chamber empty, slide forward, weapon on safe) at all times on FOB Dwyer. [Ref (b)]

25. SSgt Wilson and Sgts Guerrero and Rich stated they saw that the magazine was inserted but could not tell what condition the weapon was in. [Encl (10), (11), (12), (13)]

26. Per reference (c), there are only two methods for determining the pistol's condition: checking the round indicator (by touch) on the right side of the pistol or conducting a chamber check. [Ref (c)]

27. SSgt Wilson felt threatened by Maj Eickenhorst's action. [Encl (8)]

28. Sgt Rich felt threatened by Maj Eickenhorst's action. [Encl (10), (11)]

29. Sgts Rich and Guerrero left the COC for the chow hall shortly after the incident. [Encl (12)]

30. SSgt Wilson remained in the COC for 10 minutes then departed. [Encl (9)]

31. Capt Dimoh knew the Major was frustrated and heard that the tone of the discussion was higher than normal between Maj Eickenhorst and SSgt Wilson, but he did not see the Major draw his weapon or hear any threatening statements due to his having head phones on at the time. [Encl (15)]

32. Capt Dimoh stated that if he had seen the incident he would have intervened and taken the necessary actions to de-escalate the situation and then report the circumstances to higher. [Encl (15)]

33. The SSgt does not think that Capt Dimoh was aware the incident took place. He stated that he did not see the Capt's

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head move at all from the computer on which he was working.
[Encl (8), (9)]

34. Later that day, after the incident, SSgt Wilson told Master Sergeant (MSgt) June A. Whitlock, MWSS 373 Det FOB Dwyer Aircraft, Rescue, and Fire Fighting (ARFF) SNCOIC what happened. She advised him to contact MSgt Crowley, MWSS 373 EAF Section SNCOIC, who was located at Camp Leatherneck. [Encl (8)]

35. Approximately 1900, 18 March 11, SSgt Wilson discussed the incident with MSgt Crowley via phone. [Encl (5), (8), (9), (19)]

36. SSgt Wilson stated to MSgt Crowley that Maj Eickenhorst never pointed the weapon at him or said he was planning on shooting him but he did say that the Major's actions made him very uncomfortable. [Encl (9)]

37. SSgt Wilson stated to MSgt Crowley that he did not feel safe there as he did not know if the Major was joking or serious anymore and that he did not want to come home in a "box" after so much time on this deployment. [Encl (19)]

38. Between 1930 and 2000, 18 March 11, MSgt Crowley notified, in person, Chief Warrant Officer 2 (CWO2) Joseph R. Szewczyk, MWSS 373 EAF Section OIC of the incident. [Encl (17), (19)]

39. Immediately following the conversation CWO2 Szewczyk attempted to contact the MWSS 373 Airfield Operations Company Commander, Capt Nicol, while MSgt Crowley departed to brief SgtMaj Mack, MWSS 373 SgtMaj, and get his guidance. [Encl (17), (19)]

40. Upon the MSgt's return from the SgtMaj's office the CWO and MSgt briefed their company commander, Capt Nicol. After being briefed, the Capt, CWO, and the MSgt went to the MWSS commanding officer's office. [Encl (16), (17), (19)]

41. Approximately 2030, 18 March 11, Capt Nicol, CWO2 Szewczyk, SgtMaj Mack, and MSgt Crowley briefed LtCol Fahy on the incident. [Encl (5), (16), (17), (19)]

42. LtCol Fahy tasked Capt Nicol to contact SSgt Wilson directly in order to get all the details leading up to the

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incident. He wanted to know who witnessed the incident and what had happened. [Encl (5), (16), (17), (19)]

43. Capt Nicol departed the CO's office and immediately conducted a phone interview with SSgt Wilson. [Encl (5), (16), (17), (19)]

44. SSgt Wilson stated to Capt Nicol, on the afternoon of 18 March, he (SSgt) provided some incorrect information regarding the linear feet of an aluminum alloy material (AM2) matting expanse. [Encl (5), (16)]

45. SSgt Wilson stated to Capt Nicol that he departed the COC to get the correct information. When he returned he gave the Major incorrect information again and Sgts Rich and Guerrero corrected the SSgt on his information in front of the Major. [Encl (5), (16)]

46. SSgt Wilson stated to Capt Nicol that Maj Eickenhorst then said, "You're fucking this up," and drew his pistol and pointed it at the floor. [Encl (5), (16)]

47. SSgt Wilson stated to Capt Nicol that Maj Eickenhorst then said, "Do you want to start working on your retirement plan early?" [Encl (5), (16)]

48. SSgt Wilson stated to Capt Nicol that he replied, "Sir, I would prefer you not shoot me." [Encl (5), (16)]

49. SSgt Wilson stated to Capt Nicol that the Major then holstered his pistol and said, "All I have to do is the paperwork." [Encl (5), (16)]

50. SSgt Wilson stated to Capt Nicol that he was standing to the right of Maj Eickenhorst, both Sgts were behind the Major, and Capt Dimoh was sitting to the left of the Major at another computer with the headphones on. [Encl (5), (16), (21), (22)]

51. Capt Nicol directed the SSgt to use the battle buddy system and if at any time he felt threatened go to the VMU CO and SgtMaj and to call the command immediately. [Encl (16)]

52. SSgt Wilson stated to Capt Nicol that he was scared of the Major and didn't want to be anywhere around him. [Encl (16)]

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53. Post phone conversation Capt Nicol departed for the CO's office and debriefed him on the interview. [Encl (5), (16)]

54. Post debrief, LtCol Fahy discussed his options with Maj Lopez, MWSS 373 operations officer / acting executive officer and decided to notify the chain of command. [Encl (5)]

55. At approximately 2130, 18 March 11, LtCol Fahy contacted 2d MAW(FWD) Assistant Wing Commander (AWC), Col Sanborn, in order to report the situation. [Encl (5)]

56. LtCol Fahy was ordered to the 2d MAW(FWD) compound to brief the Commanding General (CG). [Encl (5)]

57. CG, 2d MAW(FWD), the AWC, and the Chief of Staff (COS) were briefed by LtCol Fahy on the incident. [Encl (5)]

58. The CG instructed LtCol Fahy to go to FOB Dwyer, relieve Maj Eickenhorst, and escort him back to Camp Leatherneck. [Encl (5)]

59. Approximately 2330, 18 March 11, LtCol Fahy, Maj Lopez and a Marine from the military police (MP) section departed via MV-22B for FOB Dwyer. [Encl (5)]

60. Once at FOB Dwyer LtCol Fahy relieved Maj Eickenhorst, confiscated his weapon and instructed Capt Dimoh that until Maj Eickenhorst returns or the detachment returns to Camp Leatherneck he is now the detachment OIC. [Encl (5)]

61. Between 0100 and 0130, 19 March 11, LtCol Fahy, Maj Lopez and Eickenhorst, and the MP returned to Camp Leatherneck and escorted Maj Eickenhorst to the Role III medical facility on Camp Bastion. [Encl (5)]

62. Maj Eickenhorst was evaluated by the emergency room (ER) physician, LtCol Simon Horn, Royal Army Medical Corps (RAMC), with the 2d MAW(FWD) Wing Surgeon, Lieutenant Commander (LCDR) Haines, United States Navy Medical Corps (USN, MC) in attendance. [Encl (5), (20)]

63. Maj Eickenhorst relayed to LtCol Horn discussed an incident at FOB Dwyer earlier in the day involving his interaction with one of his SSgts. [Encl (20)]

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64. Maj Eickenhorst stated to LtCol Horn that while discussing some allegedly unreliable information that was presented by the SSgt, he "partially" withdrew his M-9 pistol from his holster in order to emphasize a point he was trying to make to the SSgt. [Encl (20)]

65. Maj Eickenhorst maintained that his weapon did not clear its holster. [Encl (20)]

66. Maj Eickenhorst denied that his gesture with his weapon was a threat, but he explained that it was made with the intent to remind the SSgt that the fact they were carrying weapons signified that they were deployed in a combat zone, and that increased diligence was necessary. [Encl (20)]

67. The ER physician determined that Maj Eickenhorst was not a danger to himself or others. [Encl (20)]

68. The 2d MAW(FWD) Surgeon recommended a 24 hour watch by a fellow officer in the event that his mental status changed. [Encl (20)]

69. MWSS 373 assigned Maj Perry to escort Maj Eickenhorst until his departure from Afghanistan. [Encl (5)]

70. At 1745, 19 March 11, Maj Eickenhorst was read his rights by the investigating officer (IO), LtCol Van Nest, at which time he elected to consult with an attorney before making any statements. [Encl (2)]

71. On 21 March 11, Maj Eickenhorst contacted the IO and informed him that he was going to exercise his right to remain silent and would not provide a written or verbal statement for this investigation. [Encl (2)]

Opinions

1. During this incident Maj Eickenhorst did draw his weapon while talking to SSgt Wilson. Though there are differing accounts as to the degree to which the weapon was pulled (partially or completely), a weapon is either holstered or it isn't. Once the weapon is intentionally moved, even partially from the holster, the pistol is considered out of the holster. [FF 20, 44, 64].