

CHRONOLOGY SHEETIn the case of US v PFC Brand

(Rank and Name of Accused)

Date of alleged commission of earliest offense tried: 30 November, 2002

(Enter Date)

Date record forwarded to The Judge Advocate General: 20

(Enter Date)



JOHN P. SAUNDERS, LTC

(Signature and Rank of Staff Judge Advocate or Legal Officer)

In a case forwarded to the Judge Advocate General, the staff judge advocate or legal officer is responsible for completion of the Chronology Sheet. Trial counsel should report any authorized deductions and reasons for any unusual delays of the case.	Action		Date	Cumulative Elapsed Days ¹
			20	
² Or officer conducting review under Article 64(a) (MCM, 1984, RCM 1112) ³ In computing days between two dates, disregard first day and count last day. The actual number of days in each month will be counted. ⁴ Item 1 is not applicable when accused is not restrained, (See MCM, 1984, RCM 304) or when he/she is in confinement under a sentence or court-martial at time charges are preferred. Item 2 will be the zero date if item 1 is not applicable. ⁵ May not be applicable to trial by special court-martial ⁶ Only this item may be deducted ⁷ If no further action is required, items 1 through 8 will be completed and chronology signed by such convening authority or his/her representative. ⁸ When further action is required under Article 64 or service directives.	1. Accused placed under restraint by military authority ⁴		NONE	0
	2. Charges preferred (date of affidavit)		20 JAN 2002	0
	3. Article 32 investigation (date of report) ⁵		4 APR 2005	74
	4. Charges received by convening authority		19 APR 2005	90
	5. Charges referred for trial		19 APR 2005	90
	6. Sentence or acquittal		18 AUG 2005	211
	Less days:			
	Accused sick, in hospital or AWOL			
	Delay at request of defense		0	
	Total authorized deduction ⁶		0	
	7. Net elapsed days to sentence or acquittal			211
	8. Record received by convening authority		15 MAY 2006	483
	Action ⁷		15 MAY 2006	483
	9. Record received by officer conducting review under Article 64(a)			
	Action ⁸			

REMARKS Defense request 1105 matter delay and did not submit until 27 April 2006.

CERTIFICATE IN LIEU OF RECEIPT

(Place)

(Date)

I certify that on this date a copy of the record of trial in the case of United States v. _____

was transmitted (delivered) to the accused, _____

(Rank and Name of accused)

at _____, by _____

(Place of delivery, or address sent to)

(Means of effecting delivery, i.e., mail, messenger, etc.)

and that the receipt of the accused had not been received on the date this record was forwarded to the convening authority. The receipt of the accused will be forwarded as soon as it is received.

(Signature of trial counsel)

OR

Fort Bliss TX
(Place)

27 Sep 06
(Date)

I certify that on this date a copy of the record of trial in the case of United States v. BRAND, Willie V., PFC

was transmitted (delivered) to the accused's defense counsel, Mr. John P. Galligan

(Rank and Name)

at 315 South Main, Belton TX, by Fed Ex carrier

(Place of delivery, or address sent to) 76513

(Means of effecting delivery, i.e., mail, messenger, etc.)

because (it was impracticable to serve the record of trial on the accused because he/she was transferred to

is moving to unknown address. (the accused requested such at trial) (the accused so requested in writing, which is attached) (the accused is absent without leave) (_____) (Other reason)

(Place)

(Other reason)

Daniel R. Barry 65-09
(Signature of trial counsel)
for Paralegal Specialist

OR

The accused was not served personally because (he/she is absent without leave) (_____) (Other reason)

(Other reason)

Accused has no defense counsel to receive the record because (defense counsel has been excused under

RCM 505(d)(2)(B)) (_____) (Other reason)

(Other reason)

(Date)

(Signature of trial counsel)

COURT-MARTIAL DATA SHEET						1. OJAG NUMBER																	
2. NAME (Last, First, Middle Initial) BRAND, WILLIE V.		3. SOCIAL SECURITY NO.		4. RANK PFC	5. UNIT/COMMAND NAME HHB, Garrison Command, Fort Bliss, TX 79916																		
INSTRUCTIONS When an item is not applicable to the record of trial being reviewed, mark the proper block with a diagonal line similar to the ones which appear in the SPCMCA blocks for items 6a and b.																							
KEY TO USE																							
TC - Trial Counsel. This column will be completed in all cases in which a finding of guilty is returned. SPCMCA - Special Court-Martial Convening Authority who is not empowered to convene a general court-martial. This column will be completed in each special court-martial case by the SPCMCA or his/her designated representative.		GCM or JA - General Court-Martial Convening Authority or Judge Advocate. This column will be completed in any case in which the record is forwarded by the commander exercising general court-martial jurisdiction to The Judge Advocate General of the branch of service concerned. If the record is reviewed under Article 64(a), UCMJ, this column will be completed by the judge advocate accomplishing the review.			OJAG - Appropriate appellate agency in the Office of The Judge Advocate General of the branch of service concerned. This column will be disregarded if a record of trial was reviewed under Article 64, UCMJ, and in cases where there are no approved findings of guilt. References - All references are to the Uniform Code of Military Justice (UCMJ) and the Manual for Courts-Martial, United States (MCM), 1984.																		
SECTION A - PRETRIAL AND TRIAL PROCEDURE						<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2">TC</th> <th colspan="2">SPCMCA</th> <th colspan="2">GCM or JA</th> <th colspan="2">OJAG</th> </tr> <tr> <th>YES</th> <th>NO</th> <th>YES</th> <th>NO</th> <th>YES</th> <th>NO</th> <th>YES</th> <th>NO</th> </tr> </table>		TC		SPCMCA		GCM or JA		OJAG		YES	NO	YES	NO	YES	NO	YES	NO
TC		SPCMCA		GCM or JA		OJAG																	
YES	NO	YES	NO	YES	NO	YES	NO																
6. a. If a general court-martial, was the accused represented in the Article 32 investigation by civilian or military counsel of his/her own selection or by counsel qualified within the meaning of Article 27(b), UCMJ?						x	/	x															
b. If not, did the accused waive his/her right to such representation?						x	x	x	x														
7. Does the record show place, date, and hour of each Article 39(a) session, the assembly and each opening and closing thereafter?						x		x															
8. a. Are all convening and amending orders of courts to which charges were referred entered in the record?						x		x															
b. Are court members named in the convening orders, detailed military judge (if any), counsel and the accused accounted for as present or absent?						x		x															
c. Was less than a quorum present at any meeting requiring the presence of court members (RCM 805(b))?							x		x														
d. Does the record show that after each session, adjournment, recess, or closing during the trial, the parties to the trial were accounted for when the court reopened (A13-5)?						x		x															
e. If the military judge or any member present at assembly was thereafter absent, was such absence the result of challenge, physical disability or based on good cause as shown in the record of trial (RCM 505(c)(2)(A))?						x	x	x	x														
9. Were the reporter and interpreter, if any, sworn or previously sworn?						x		x															
10. a. Was the military judge properly certified (RCM 502(c))?						x		x															
b. Was the military judge properly detailed (RCM 503(b))?						x		x															
c. Was the military judge present during all open sessions of the court?						x		x															
11. a. Was the accused advised that																							
(1) He/she had the right to be represented free of charge by a military lawyer of his/her own selection, if reasonably available, in which case detailed counsel might be excused (RCM 506(a))?						x		x															

COURT-MARTIAL DATA SHEET

SECTION A - PRETRIAL AND TRIAL PROCEDURE (Continued)	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
(2) He/she had the right to be represented at the trial by a civilian lawyer provided at no expense to the government, in which case detailed counsel would serve as associate counsel or be excused with the accused's consent?	X				X			
(3) If he/she did not exercise any of the rights listed above, he/she would be defended by detailed counsel certified under article 27(b), UCMJ (RCM 502(d)(1))?	X				X			
b. (1) Was the accused represented by a civilian lawyer?		X				X		
(2) Did the accused request a specific military counsel?	X				X			
(3) (a) If so, was such request complied with?	X				X			
(b) If not, were reasons given why requested counsel was not reasonably available?	X	X			X	X		
12. a. Was the detailed defense counsel properly certified (RCM 502(d))?	X				X			
b. Was at least one qualified counsel for each party present during all open sessions of the court (RCM 502(d) and RCM 805(c))?	X				X			
13. a. If the special court-martial adjudged a BCD								
(1) Was a military judge detailed to the court (RCM 503(b))?	X	X			X	X		
(2) If not, did the convening authority submit a statement indicating why a military judge could not be detailed and why trial had to be held at that time and place (Article 19, UCMJ)?	X	X			X	X		
(3) Was a verbatim transcript made (Article 19, UCMJ)?	X	X			X	X		
14. Did any person who acted as the accuser, investigating officer, military judge, court member, or member of the defense in the same case, or as counsel for the accused at a pretrial investigation or other proceedings involving the same general matter, subsequently act as a member of the prosecution (RCM 502(d)(4))?		X				X		
15. If any member of the defense had acted as a member of the prosecution in the same case, was he/she excused (RCM 502(d)(4))?	X	X			X	X		
16. a. If any member of the defense had acted as the accuser, investigating officer, military judge, or member of the court, were his/her services expressly requested by the accused (RCM 502(d)(4))?	X	X			X	X		
b. If not, was he/she excused?	X	X			X	X		
17. a. If accused was an enlisted person, did he/she make a request that enlisted persons be included in membership of the court?		X				X		
b. If so, were at least one-third of the members who tried the case enlisted persons, or did the convening authority direct the trial without enlisted persons and provide a detailed written explanation which is appended to the record (RCM 503(a)(2))?	X	X			X	X		
c. Did any enlisted member of the court belong to the same unit as the accused?		X				X		
18. If a military judge was detailed to the court, was the accused informed of his/her right to request trial by military judge alone?	X				X			
19. Were the members of the court, military judge (if any) and the personnel of the prosecution and defense sworn or previously sworn?	X				X			
20. a. Was any person sitting as a member of the court, or military judge (if any), the accuser, a witness for the prosecution, the investigating officer, staff judge advocate, counsel, or convening authority, or upon rehearing or new trial was he/she a member of the former trial (RCM 902(b) and RCM 912(f))?		X				X		
b. If so, did the accused waive such disqualification (RCM 912(f)(4) and RCM 902(e))?	X	X			X	X		

COURT-MARTIAL DATA SHEET

SECTION A - PRETRIAL AND TRIAL PROCEDURE (Continued)	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
21. a. Was each accused extended the right to challenge military judge (if any), and any member of the court for cause and to exercise one peremptory challenge?	X				X			
b. Was action by court upon challenges proper (RCM 902 and RCM 912)?	X				X			
c. Does the record show that a member excused as result of a challenge withdrew from the court?	X	X			X	X		
22. a. Was the accused properly arraigned (RCM 904)?	X				X			
b. Do the following appear in the record: the charges and specifications, the name, rank and unit/command name of the person signing the charges, the affidavit, and the order of reference for the trial?	X				X			
c. Except in time of war, was the accused brought to trial (which includes an Article 39a, UCMJ session) by general court-martial within five days (by special court-martial within three days) subsequent to service of charges upon him/her (RCM 602)?		X				X		
d. If so, did the accused object to trial?	X	X			X	X		
23. a. Were any charges or specifications affected by the statute of limitations (RCM 907(b))?		X				X		
b. If so, was accused advised of his/her right to assert the statute and was his/her response recorded (RCM 907(b))?	X	X			X	X		
24. Did the court take proper action with respect to motions raising defenses and objections (RCM 905-907)?	X				X			
25. a. Were pleas of accused regularly entered (RCM 910(a))?	X				X			
b. Were pleas of guilty properly explained, and accused's responses recorded (RCM 910(c))?	X				X			
26. Does the record show that all witnesses were sworn?	X				X			
27. Did the military judge or president advise the court concerning the elements of each offense, each lesser-included offense reasonably raised by the evidence, and the presumption of innocence, reasonable doubt, and burden of proof, pursuant to Article 51(c), UCMJ (RCM 920(e))?	X				X			
28. a. If trial was by military judge alone, did the military judge announce the findings (RCM 922)?	X				X			
b. If the trial was with members, did the president announce the findings (RCM 922)?	X	X			X	X		
c. If special findings were requested, were they made a part of the record?	X	X			X	X		
29. Were the findings in proper form (A10)?	X				X			
30. a. Was the evidence, if any, of previous convictions admissible and properly introduced in evidence (RCM 1001(b)(3))?	X	X			X	X		
b. Was the information from personnel records of the accused properly admitted (RCM 1001(b)(2))?	X				X			
c. Was the defense permitted to introduce evidence in extenuation and mitigation after the court announced findings of guilty (RCM 1001(c))?	X				X			
31. a. In a trial with members, did the president announce the sentence (RCM 1007)?	X	X			X	X		
b. If trial was by military judge alone, did the military judge announce the sentence (RCM 1007)?	X				X			

COURT-MARTIAL DATA SHEET

SECTION A - PRETRIAL AND TRIAL PROCEDURE (Concluded)	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
32. Was the sentence in proper form (A11)?	X				X			
33. Is the record properly authenticated (RCM 1104)?	X				X			
34. a. Did all members who participated in proceedings in revision vote on original findings and sentence (RCM 1102(e)(1))?	X	X			X	X		
b. At proceedings in revision, were a military judge (if one was present at the trial), the accused, and counsel for the prosecution and defense present (RCM 1102(e)(1))?	X	X			X	X		
35. Was each accused furnished a copy of the record or substitute service made on defense counsel (RCM 1104(b))?	X				X			
36. Was clemency recommended by the court or military judge?		X				X		
SECTION B - PROCEDURE AFTER TRIAL	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
37. Was the court convened by proper authority (RCM 504(b))?	X				X			
38. Did the court have jurisdiction of person and offense (RCM 202 & 203)?	X				X			
39. Does each specification state an offense under the code (RCM 907(b))?	X				X			
40. Did the accused have the requisite mental capacity at the time of trial and the requisite mental responsibility at the time of the commission of each offense (RCM 909 and RCM 916(k))?	X				X			
41. Is the evidence sufficient to support the findings?	X				X			
42. Is the sentence within legal limits (RCM 1112(d))?	X				X			
43. Is the action of the convening authority properly entered in the record and signed (RCM 1107(f))?	X				X			
44. If appropriate, is a proper place of confinement designated (RCM 1107(f)(4)(c))?	X	X			X	X		
45. a. Was the staff judge advocate's post-trial recommendation served on the defense counsel for comment (RCM 1106(f))?	X				X			
b. If the addendum to the recommendation contained new matters, was it served on the defense counsel for comment (RCM 1106(f)(7))?	X	X			X	X		
c. Did the accused submit matters for the convening authority's consideration in a timely manner (RCM 1105)?	X				X			
d. If yes, was the convening authority's action subsequent to the submission of the matters?	X				X			
e. If no, did the accused waive in writing the right to submit matters and was the action taken subsequent to the written waiver or did the time periods provided in RCM 1105(c) expire before the convening authority's action?	X	X			X	X		
46. a. Does the record indicate that the accused was advised of his/her appellate rights (RCM 1010)?	X				X			
b. Do the allied papers contain a statement indicating the desires of the accused with respect to appellate representation in the event his/her case is referred to a court of military review?	X				X			
c. Did the accused waive or withdraw appellate review and is the waiver or withdrawal in proper form and attached to the record of trial (RCM 1110, A19 & 20)?		X				X		

COURT-MARTIAL DATA SHEET

SECTION C - COURT-MARTIAL ORDERS (CMO)	TC		SPCMCA		GCM or JA		OJAG	
	YES	NO	YES	NO	YES	NO	YES	NO
47. Does the initial CMO bear the same date as the action of the convening authority who published it?					X			
48. Are all the orders convening the court which tried the case correctly cited in the CMO?					X			
49. Are the accused's name, rank, SSN, unit/command name and branch of service correctly shown in the CMO?					X			
50. Are all the charges and specifications (including amendments) upon which the accused was arraigned correctly shown in the CMO (RCM 1114)?					X			
51. Are the pleas, findings, and sentence correctly shown in the CMO (RCM 1114)?					X			
52. Does the CMO show the date the sentence was adjudged?					X			
53. Is the action of the convening authority correctly shown in the CMO (RCM 1114)?					X			
54. Is the CMO properly authenticated (RCM 1114)?					X			

55. REMARKS

In the sentence of reduction to E1 is approved.

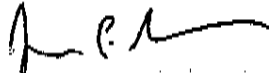
COURT-MARTIAL DATA SHEET

55. REMARKS (Continued)

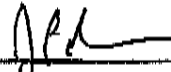
56. TRIAL COUNSEL

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED

57. CONVENING AUTHORITY OR HIS/HER REPRESENTATIVE

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED
SAUNDERS, JOHN P.	LTC		10 27 06

58. STAFF JUDGE ADVOCATE OF GENERAL COURT-MARTIAL CONVENING AUTHORITY OR REVIEWING JUDGE ADVOCATE

a. TYPED NAME (Last, First, Middle Initial)	b. RANK	c. SIGNATURE	d. DATE SIGNED
SAUNDERS, JOHN P.	LTC		10 27 06

59. ACTION IN THE OFFICE OF THE JUDGE ADVOCATE GENERAL

a. ACTION

b. INDIVIDUAL COMPLETING DATA SHEET

(1) TYPED NAME (Last, First, Middle Initial)	(2) RANK	(3) SIGNATURE	(4) DATE SIGNED

2nd CORRECTED COPY

DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY AIR DEFENSE ARTILLERY CENTER AND FORT BLISS
FORT BLISS, TX 79916-6816

GENERAL COURT-MARTIAL ORDER
NUMBER 15

15 May 2006

Private First Class Willie V. Brand U.S. Army, Headquarters and Headquarters Battery, U.S. Army Air Defense Artillery Center and Fort Bliss, Fort Bliss, Texas, 79916, was arraigned at Fort Bliss, Texas, on the following offenses at a general court-martial convened by the Commander, U.S. Army Air Defense Artillery Center and Fort Bliss.

Charge I. Article 128. Plea: Not Guilty. Finding: Guilty.

Specification 1: Between on or about 5 December 2002 and on or about 10 December 2002, at or near Bagram Airfield, Afghanistan, did, commit an assault upon D. (a/k/a BT 421, BT-421, or PUC 421) by unlawfully striking D. in the legs around 30 times, with a means to produce grievous bodily harm, to wit: a knee. Plea: Not Guilty. Finding: Guilty.

Specification 2: Between on or about 5 December 2002 and on or about 10 December 2002, at or near Bagram Airfield, Afghanistan, did, unlawfully strike D. (a/k/a BT 421, BT-421, or PUC 421) at least twice in the leg with his knee. Plea: Not Guilty. Finding: Not Guilty.

Specification 3: Between on or about 5 December 2002 and on or about 10 December 2002, at or near Bagram Airfield, Afghanistan, did, unlawfully strike D. (a/k/a BT 421, BT-421, or PUC 421) at least once in the leg with his knee. Plea: Not Guilty. Finding: Not Guilty.

Specification 4: Between on or about 30 November 2002 and on or about 4 December 2002, at or near Bagram Airfield, Afghanistan, did, unlawfully strike H. (a/k/a BT 412, BT-412, or PUC 412) at least twice in the leg with his knee. Plea: Not Guilty. Finding: Not Guilty.

Charge II. Article 96. Plea: Not Guilty. Finding: Guilty.

Specification 1: Between on or about 5 December 2002 and on or about 10 December 2002, at or near Bagram Airfield, Afghanistan, did, maltreat D. (a/k/a BT 421, BT-421, or PUC 421) a person subject to his orders, by striking D. in the legs around 30 times with his knees. Plea: Not Guilty. Finding: Guilty.

Specification 2: Between on or about 5 December 2002 and on or about 10 December 2002, at or near Bagram Airfield, Afghanistan, did, maltreat D. (a/k/a BT 421, BT-421, or PUC 421) a person subject to his orders, by striking D. at least twice in the leg with his knee. Plea: Not Guilty. Finding: Not Guilty.

Specification 3: Between on or about 5 December 2002 and on or about 10 December 2002, at or near Bagram Airfield, Afghanistan, did, maltreat D. (a/k/a BT 421, BT-421, or PUC 421) a person subject to his orders, by striking D. at least once in the leg with his knee. Plea: Not Guilty. Finding: Not Guilty.

Specification 4: Between on or about 30 November 2002 and on or about 4 December 2002, at or near Bagram Airfield, Afghanistan, did, maltreat H. (a/k/a BT 412, BT-412, or PUC 412) a person subject to his orders, by striking H. at least twice in the leg with his knee. Plea: Not Guilty. Finding: Not Guilty.

Charge III. Article 134. Plea: Not Guilty. Finding: Guilty.

The Specification: On or about 21 December 2002, at or near Bagram Airfield, Afghanistan, did in a sworn statement, wrongfully and unlawfully subscribe under lawful affirmation a false statement in substance as follows: that he had not been abusive with any of the detainees at Bagram Airfield, which statement he did not then believe to be true. Plea: Not Guilty. Finding: Guilty.

Additional Charge. Article 124. Plea: Not Guilty. Finding: Guilty.

The Specification: Between on or about 5 December 2002 and on or about 10 December 2002, at or near Bagram Airfield, Afghanistan, did, maim D. (a/k/a BT 421, BT-421, or PUC 421) by disabling D.'s legs and destroying his leg muscle tissue with repeated unlawful knee strikes. Plea: Not Guilty. Finding: Guilty.

SENTENCE

Sentence was adjudged on 18 August 2005: to be reduced to Private. E-1.


ACTION

The sentence is approved and will be executed.

BY COMMAND OF MAJOR GENERAL LENNOX:

DISTRIBUTION:

- 1-Accused
- 1-Military Judge (LTC Sposato)
- 1-Trial Counsel (1LT Trainor/MAJ Carrier)
- 1-Defense Counsel (Mr. Galligan/CPT Slawinski)
- 1-Chief, Criminal Law Division
- 1-Legal Administrator


ANDRAS M. MARTON
MAJ. JA
Chief, Military Justice

GCMO No. 15, DA, HQ, USAADACENFB, Ft. Bliss, TX, 79916, dated 15 May 2006
(Continued)

DISTRIBUTION, continued:

1-Cdr, HHB, USAADACENFB
1-Cdr, 377th MP Bn
1-Cdr, 76th MP Bn
1-Cdr, 384th MP Bn
1-Cdr, 300th MP Bde
1-ATZC-DHR-AGR, ATZC-DRM-F, ATZC-PM
2-Cdr, USAADACENFB, ATTN: SJA
1-Cdr, Soldier Record Data Center, ATTN: Quality Branch,
8899 East 56th Street, Indianapolis, Indiana 46249-5301
10-Clerk of Court, ATTN: JALS-CCR, 901 North Stuart Street,
Suite 1200, Arlington, Virginia 22203-1837
1-Cdr, 76th MP DET (CID), 11th MP BN CID
1-Director, U.S. Army Crime Records Center, 6010 6th Street,
Fort Belvoir, Virginia 22060-5506
1-HQ, USACIDC, ATTN: CIOP-ZC, 6010 6th Street,
Fort Belvoir, Virginia 22060-5506
1-HODA, Office of the PMG, ATTN: MP Operations Division,
2800 Army Pentagon, Washington, DC 20310-2800
1-Record Set
1-Reference Set

DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY AIR DEFENSE ARTILLERY CENTER AND FORT BLISS
1733 PLEASANTON ROAD
FORT BLISS, TEXAS 79916-6816

GENERAL COURT-MARTIAL ORDER
NUMBER 15

12 June 2006

PFC Willie V. Brand U.S. Army, Headquarters and Headquarters Battery, United States Army Air Defense Artillery Center and Fort Bliss, Fort Bliss, Texas 79916, was arraigned at Fort Bliss, Texas, on the following offenses at a General court-martial convened by Commander, U.S. Army Air Defense Artillery Center and Fort Bliss.

Charge I. Article 128. Plea: Not Guilty. Finding: Guilty.

Specification 1: Unlawfully strike Dilawar between on or about 5 December 2002 and on or about 10 December 2002. Plea: Not Guilty. Finding: Guilty

Specification 2: Unlawfully strike Dilawar between on or about 5 December 2002 and on or about 10 December 2002. Plea: Not Guilty. Finding: Not Guilty

Specification 3: Unlawfully strike Dilawar between on or about 5 December 2002 and on or about 10 December 2002. Plea: Not Guilty. Finding: Not Guilty

Specification 4: Unlawfully strike Dilawar between on or about 30 Nov 2002 and on or about 4 December 2002. Plea: Not Guilty. Finding: Not Guilty

Charge II. Article 93. Plea: Not Guilty. Finding: Guilty.

Specification 1: Maltreat Dilawar Between on or about 5 December 2002 and 10 December 2002. Plea: Not Guilty. Finding: Guilty.

Specification 2: Maltreat Dilawar Between on or about 5 December 2002 and 10 December 2002. Plea: Not Guilty. Finding: Not Guilty

Specification 3: Maltreat Dilawar Between on or about 5 December 2002 and 10 December 2002. Plea: Not Guilty. Finding: Not Guilty

Specification 4: Maltreat Dilawar Between on or about 5 December 2002 and 10 December 2002. Plea: Not Guilty. Finding: Not Guilty

20051005

See corrected copy.

GCMO No 15, DA, HQ, USAADACENFB, Ft. Bliss, TX 79916, dated 12 Jun 2006

Charge III. Article 134. Plea: Not Guilty. Finding: Guilty.

Specification: Wrongfully and unlawfully subscribe a false statement on or about 21 December 2002. Plea: Guilty. Finding: Guilty.

Add'l Charge. Article 124. Plea: Not Guilty. Finding: Guilty.

Specification: Maim Dilawar between on or about 5 December 2002 and 10 December 2002.
Plea: Not Guilty. Finding: Guilty.

SENTENCE

Sentence was adjudged on 18 August 2005: To be reduced to the grade of E1.

ACTION

The Sentence is approved and will be executed.

BY COMMAND OF MAJOR GENERAL LENNOX:

DISTRIBUTION:

1-Accused
1-Military Judge (LTC Sposato)
1-Trial Counsel (CPT Parker)
1-Defense Counsel (CPT Leone)
1-Chief, Criminal Law Division
1-Legal Administrator
1-Cdr, HHB, USAADACENFB
1-Cdr, 377th MP Co
1-Cdr, 76th MP Bn
1-Cdr, 384th MP Bn
1-Cdr, 300th MP BDE
1-Cdr, 88th RRC
1-Cdr, Garrison Command
(CONT)



JEFFREY S. FORMAN
CW2, JA
Legal Administrator

GCMO No 15, DA, HQ, USAADACENFB, Ft. Bliss, TX 79916, dated 12 Jun 2006

DISTRIBUTION: (CONT)

1-ATZC-DHR-AGR, ATZC-DRM-F, ATZC-PM

2-Cdr, USAADACENFB, ATTN: SJA

1-Cdr, USAEREC, ATTN: PCRE-FS, Fort Benjamin
Harrison, Indiana 46249

10-Clerk of Court, ATTN: JALS-CC, 901 N. Stuart St.
Suite 1200, Arlington, VA 22203

1-Cdr, 76th MP DET (CID), 11th MP BN CID

1-Director, U.S. Army Crime Records Center, 6010 6th Street,
Fort Belvoir, Virginia 22060-5506

1-Record Set

1-Reference Set

ATZC-CG

MEMORANDUM FOR RECORD

SUBJECT: Post-Trial Submissions, *US v. Willie Brand*,

1. Prior to taking action in the above titled case, I considered the matters listed below as 21 Enclosures.

2. In addition to acting on the case, I take the following actions:

a. The defense request for a verbatim transcript is

_____ approved.

RA disapproved.

b. The defense request for a copy of the trial tapes to be attached to the record of trial is

RA approved.

_____ disapproved.

c. The defense request that copies of all charge sheets and final dispositions taken in all cases handled by the Bagram Prosecution Team at Fort Bliss be appended to the record of trial is

_____ approved.

RA disapproved.

21 Enclosures

1. Memo from Defense Counsel,
dtd 27 Apr 06
2. Memo from Defense Counsel,
dtd 3 Feb 06
3. SJAR
4. Article, Afghan Abuse Cases,
dtd 31 Dec 05
5. Article, Abuse Charges Should be
Dropped, dtd 22 Dec 05


ROBERT P. LENNOX
Major General, USA
Commanding

20051005

REPLY TO
ATTENTION OF:DEPARTMENT OF THE ARMY
HEADQUARTERS, US ARMY AIR DEFENSE ARTILLERY CENTER
AND FORT BLISS
FORT BLISS, TEXAS 79916

ATZC-JA

15 May 2006

MEMORANDUM FOR Commanding General, U.S. Army Air Defense Artillery Center and
Fort Bliss, Fort Bliss, Texas 79916SUBJECT: Supplemental Addendum to Staff Judge Advocate's Recommendation in the General
Court-Martial of U.S. v. PFC Willie V. Brand.

1. This addresses the latest post-trial submissions of the accused in the General Court-Martial case of PFC Willie V. Brand, U.S. Army. The submission is dated 27 April 2006.
2. PFC Brand and his defense counsel again ask that you disapprove the findings of guilty and the sentence, or, in the alternative, that you disapprove the reduction in rank. The defense asserts that a suitable punishment for this case would be no more severe than a reprimand. The defense also renews its request that you order production of a verbatim transcript of the court-martial, or that copies of the tape recordings be attached to the record of trial. The defense has submitted copies of the tapes as an attachment to its 1105 submission. You must consider all written matters submitted by the defense before taking action.
3. The accused, by and through his defense counsel, alleges error in the Staff Judge Advocate's Post-Trial Recommendation (SJAR) and asserts a number of legal errors that purportedly occurred during the trial and in the post-trial process. He also submits matters in clemency. The SJAR, the defense contends, is deficient because it "does not make any reference to the disposition taken in any of the numerous companion cases." The evidence of the disposition of other cases, according to the defense, raises serious issues of selective prosecution. I disagree that the SJAR is deficient or that any alleged disparity between results in the various cases raises issues of selective prosecution rather than appropriate disposition based upon the facts of each case. Finally, I disagree that selective prosecution occurred.
4. Legal Issues.
 - a. The defense asserts that the evidence against the accused is legally insufficient to support his conviction. The defense further asserts that the military judge erred by not compelling the government to procure immunity for CPT Christopher Beiring and CPT Carolyn Wood to make possible the testimony of these officers, who had previously invoked their right to remain silent. The defense also contends the military judge and the Convening Authority erred in failing to order a verbatim transcript of proceedings. Finally, the defense contends that this office and PAO have prevented the public from having a complete record of the trial proceedings (i.e., a verbatim transcript). The defense renews its request for a verbatim transcript or, in the alternative, asks that the trial audio tapes incorporated with the defense's RCM 1105 submission be considered during appellate review.

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ATZC-JA

SUBJECT: Supplemental Addendum to Staff Judge Advocate's Recommendation in the General Court-Martial of U.S. v. PFC Willie V. Brand.

(1) I disagree with the defense that the evidence was legally insufficient or that the rulings concerning CPT Wood and CPT Beiring constitute legal error warranting modification of the result of trial. I further disagree that a verbatim transcript is required or warranted. In light of the sentence adjudged in this case, RCM 1103(b)(2) does not require that a verbatim transcript be produced. Further, I note that the defense has had ample time to review the audio tapes and produce a verbatim transcript if they so desire. On 9 March 2006 you denied defense's initial request for a verbatim transcript and you directed that a copy of the trial tapes be given to the defense. The defense received these tapes on or about 25 March 2006 and had the tapes until the end of April 2006. I recommend that you deny the renewed request for a verbatim transcript.

(2) Under RCM 1105(b) and RCM 1107(b)(3), you are required to consider written matters submitted by the defense before taking action. You are not required to listen to the trial audio tapes, even if submitted by the defense for your consideration. However, both the trial audio tapes and the summarized record of proceedings are available for your review and consideration. Recommend that you direct that the audio tapes appended to the defense submissions be forwarded to the appropriate appellate authority along with the record of trial.

b. The defense contends the military judge erred in failing to dismiss the assault charge contained in Specification 1, Charge I, as a lesser included offense of the Additional Charge (maiming) or Specification 1, Charge II (maltreatment). This legal issue was raised by a pre-trial motion, which the military judge denied on 23 June 2005. After findings were entered, the military judge instructed the panel that they were to consider maiming and aggravated assault as multiplicitous for purposes of sentencing. I disagree that legal error occurred.

c. The defense contends the military judge and the Convening Authority erred in denying the defense request for a post-trial hearing under Article 39(a), UCMJ. The defense states that such a post-trial session was essential to secure evidence to establish that you as the Convening Authority are disqualified from acting in *US v. Brand* because of the disparate disposition in companion cases. The defense renews its request that the charge sheets and final disposition of all cases handled by the Bagram Prosecution Team be attached to the *Brand* record of trial. I disagree that any legal error occurred or that copies of the charge sheets and final disposition in all other cases handled by the Bagram Prosecution Team should be appended to the record of trial. I recommend you deny their request that those documents be appended to the accused's record of trial. I further disagree that your actions in this or companion cases disqualify you from taking action this case.

d. The defense contends the military judge erred by failing to grant a new Article 32, UCMJ, pre-trial investigation or re-open the pre-trial investigation. The defense also contends that the military judge erred by refusing to produce defense-requested witnesses for trial and by admitting evidence over defense objection. I disagree with these assertions of legal error.

e. The defense further asserts that erroneous evidentiary rulings by the military judge precluded the defense from demonstrating that the accused lacked proper leadership, training and guidance. The defense refers to a reprimand you issued to the accused's company commander,

ATZC-JA

SUBJECT: Supplemental Addendum to Staff Judge Advocate's Recommendation in the General Court-Martial of U.S. v. PFC Willie V. Brand

as well as media reports, as evidence that others were responsible for PFC Brand's misconduct. I disagree with this assertion of legal error.

f. The defense asserts the military judge erroneously denied the defense the opportunity to demonstrate that the underlying conditions of the alleged maltreatment (e.g., chaining, hooding, sleep deprivation) were part of the officially-sanctioned interrogation techniques. The defense also cites to the pre-trial investigation in US v. Beiring, in which the investigating officer determined that the accused's unit had a poorly defined mission and was inadequately trained. I disagree that legal error occurred. The military judge correctly allowed some evidence of chaining, hooding, and sleep deprivation, but his rulings properly focused the case on the assaults perpetrated by the accused, which were the factual basis for the maltreatment specification.

g. Lastly, the defense contends there was a wide range of disparity in the dispositions and sentences among detainee abuse cases handled by the "overly zealous prosecutors assigned to the Bagram Prosecution Team." I disagree that any alleged disparity between the dispositions in cases reviewed by the Bagram Prosecution Team was not warranted by the facts in those particular cases or that the dispositions constituted legal error.

5. Clemency issues.

a. The defense requests that you disapprove the findings of guilty or, in the alternative, that you disapprove the reduction in rank.

b. The defense asserts clemency is further warranted based on the following:

(1) PFC Brand served the U.S. Army and his country on several deployments;

(2) PFC Brand and his family have suffered terribly while awaiting disposition of this case; and

(3) PFC Brand continues to enjoy the respect and confidence of many individuals. The defense has attached a number of letters of support for the accused.

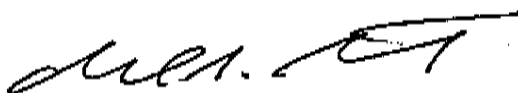
c. I disagree that the matters discussed above warrant granting clemency in this case.

6. I have considered all of the defense submissions. I disagree that legal error occurred. Further, none of the allegations of error or the matters submitted in the request for clemency

ATZC-JA

SUBJECT: Supplemental Addendum to Staff Judge Advocate's Recommendation in the General Court-Martial of U.S. v. PFC Willie V. Brand.

warrant altering the findings and sentence. I adhere to and adopt my recommendation in the SJAR that you approve the sentence as adjudged.



MARK A. RIVEST
COL, JA
Staff Judge Advocate

22 Enclosures

1. Memo from Defense Counsel, dtd 27 Apr 06
2. Memo from Defense Counsel, dtd 3 Feb 06
3. SJAR
4. Article, Afghan Abuse Cases, dtd 31 Dec 05
5. Article, Abuse Charges Should be Dropped, dtd 22 Dec 05
6. Defense Request for Post-Trial 39(a) and CG Response, dtd 19 Jan 06
7. Wikipedia, Christopher M. Beiring, dtd 1 Feb 06
8. Article, From Bagram to Abu Ghraib, dtd 11 Sept 05
9. Article, Senate Approves Treatment Rules, dtd 6 Oct 05
10. Defense Request for Post-Trial 39(a) and fax cover sheet, dtd 6 Mar 06
11. Memo, CJTF 180 Interrogation Techniques, dtd 24 Jan 03
12. SJA's Pretrial Advice, CG's Dismissal of Charges in *US v. Beiring*; Beiring GOMOR, dtd 6 Jan 06
13. Article 32 Investigating Officer's Report, Article 32 transcript, supporting documents in *US v. Beiring*
14. Letter from Milton Lee Lowe, Jr., dtd 31 Oct 05
15. Letter from Cindy C. Buis, LPN, dtd 29 Oct 05
16. Letter from Edward W. Buis, dtd 1 Nov 05
17. Letter from Bettie Siffel, dtd 1 Nov 05
18. Letter from Diane Elaine Lowe, CRI, dtd 1 Nov 05
19. Letter from Steven K. Clerk

ATZC-JA

SUBJECT: Supplemental Addendum to Staff Judge Advocate's Recommendation in the General Court-Martial of U.S. v. PFC Willie V. Brand.

22 Enclosures (cont'd)

20. Trial Tapes, *US v. Brand*

21. SJAR Addendum, dtd 9 Mar 06

22. CG actions dtd 9 Mar 06; CG letter in response to defense request, dtd 9 Mar 06; defense request dtd 6 Mar 06



LAW OFFICES OF
JOHN P. GALLIGAN, PLLC

315 S. Main • Belton, Texas 76513

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27 April 2006

MEMORANDUM FOR Commander, Fort Bliss, Fort Hood, Texas 76544.

SUBJECT: Post-Trial Submissions, U. S. v Willie .v. Brand, PFC, U.S. Army,
HHB, US ADA Center and Fort Bliss, Fort Bliss, Texas 79916

1. Pursuant to Rule for Court-Martial (R.C.M.) 1105 and 1106, and Articles 38(c) and 60, Uniform Code of Military Justice (U.C.M.J.), the Defense submits the following for consideration in post-trial actions:

2. The Defense notes the following legal deficiencies to the Staff Judge Advocate's Post-Trial Advice (Enclosure):

**The Staff Judge Advocate's Post-Trial Advice Remains Factually
Misleading and Legally Deficient Inasmuch As It Fails to Properly Detail the
Disposition Taken In Companion Cases.**

– As noted previously, the SJA Post Trial Review does not make any reference to the disposition taken in any of the numerous companion cases. A fair and proper reference to such companion cases would reflect that the same General Court-Martial Convening Authority elected, upon advice of the Staff Judge Advocate, to impose a simple Memorandum of Reprimand on the Defendant's immediate commander. A fair reading of that same Memorandum of Reprimand reflects that the Defendant here was bereft of effective training and leadership. To approve the findings and sentence in the instant case would signify that the Defendant is to be held to a higher standard of conduct than his own commander. It would also demonstrate that only lower enlisted personnel, not officers, are accountable for any failures at the Bagram Detention Facility. In short, the evidence raises serious issues of **selective prosecution**, yet another serious and prejudicial error which the government has conveniently not addressed.

Legal Issues:

3. As reflected in the Post Trial Advice, the Defendant was found Not Guilty, by panel of officers and senior enlisted members, of the great bulk of all charged offenses. The Defense submits that evidence presented at trial was and remains legally insufficient to find PFC Willie Brand guilty of the few remaining charged offenses to which the panel did not otherwise exonerate him. Had the panel been permitted to hear evidence the defense was precluded from presenting because of the erroneous and prejudicial rulings of the military judge (e.g. testimony from Captains Carolyn Wood and/or

SUBJECT: Post-Trial Submissions, US v Willie v. Brand, PFC, U.S. Army,
HHB, US ADA Center and Fort Bliss, Fort Bliss, Texas 79916

Christopher Beiring, the panel would more likely than not have acquitted the Defendant completely. Also, inasmuch as the trial judge and the court-martial convening authority refused to permit a verbatim transcription of the trial proceedings, the Defense has been effectively denied an opportunity to effectively portray these same evidentiary deficiencies to the appellate authorities. While national media channels, including The New York Times and CBS "60 Minutes" recognized the high-public profile of the instant case, the Fort Bliss Public Affairs Office (PAO) and the Office of the Staff Judge Advocate at Fort Bliss effectively teamed to prevent the general public from having available to the most reliable and complete record of trial proceedings, i.e. a verbatim transcript.

A verbatim transcript certainly would have been required if the crew of Bagram Prosecutors had been given their wish. At trial, the Bagram Prosecution Team argued that an appropriate sentence in this case should include nothing less than ten (10) years confinement at hard labor. Now, confronted with a panel sentence that was **less severe that which could have been imposed by way of field-grade nonjudicial disposition** (Article 15), the Bagram Prosecution Team seeks still hides from the truth by objecting to the production of a verbatim transcript of trial proceedings. When compared to the time, effort, and expense associated with the prosecution of the instant case, the Defense request for a simple verbatim transcript of trial pales in comparison. Accordingly, **a verbatim transcript of trial proceedings is once again renewed so that appropriate appellate review can be obtained. Alternatively, the Defense respectfully requests that the attached trial audio tapes, hereby incorporated as part of the instant RCM 1105 submission, be considered during appellate review.**

4. The military judge erroneously and prejudicially failed to dismiss the assault charge contained in Specification 1 of Charge I as a lesser included offense of the Additional Charge (maiming) or Specification 1 of Charge (II) (maltreatment). As the appellate courts have correctly held, a Defendant may not be convicted of a greater and lesser offense based on the same conduct. See United States v. Leak, 61 M.J. 234, 249 (2005). The lesser included offenses to which the Defendant was found guilty in this case must therefore be dismissed.

5. The military judge and the general court-martial convening authority erroneously and prejudicially failed to grant the Defendant's request for a post trial Article 39a session. Such post trial session was essential to secure evidence which would establish that the general court-martial convening authority should be precluded from taking post trial action based on the disparate disposition he has taken on companion or related cases.

Inasmuch as the Defense was precluded from securing the aforementioned evidence during an Article 39a session, **it is again requested that a copy of the charge sheets and final disposition taken in all of the cases handled by the Bagram Prosecution Team at Fort Bliss be appended to the instant record of trial for appellate consideration.** For the reasons earlier outlined in the Request for Post

Trial 39a Session, attached and hereby incorporated as part of this rebuttal, the Defendant continues to insist that the General Court-Martial Convening Authority is disqualified from taking post trial action in this case.

6. The military judge committed legal error by refusing to grant a new or to reopen the Article 32 investigation; by refusing to produce defense-requested witnesses for trial; and by admitting prosecution evidence over Defense objections during the trial. Had the military judge properly ruled on the Defense motions and request, then PFC Brand would have been found Not Guilty of all charged offenses.

7. As a direct result of the military judge's erroneous and prejudicial rulings, the Defense was effectively precluded from demonstrating to the panel members that the Defendant was without proper leadership, training, and guidance. The Beiring Memorandum of Reprimand acknowledges that the unit commander failed miserably in this regard. Those same deficiencies have been recognized by ranking members in the US Congress. Senator McCain, a former prisoner of war himself, acknowledged: "We demanded intelligence without ever clearly telling out troop what was permitted and what was forbidden. And, when things went wrong, we blamed them and we punished them." See earlier submitted Enclosure ("**Senate Approves Detainee Treatment Rules**"). Senator McCain's remarks are directly applicable to the case at hand. PFC Brand has been made the scapegoat for a failed national policy, defective US Army doctrine, and deficient leadership. See attached article: Emily Bazelon: "**From Bagram to Abu Gharib**". The Bagram Prosecution Team zealously went after PFC Brand and sought to portray him as some rogue runaway soldier – well, that same platoon of prosecutors proved to be totally ineffectual in going after any officer or senior NCOs who were directly implicated in the underlying misconduct.

8. The military judge erroneously and prejudicially denied the Defense the opportunity to demonstrate the underlying conditions of alleged maltreatment, i.e. chaining to fixed objects and hooding, were part of officially-sanctioned interrogation techniques. At every stage of the trial, the Bagram Prosecution Team – joined and supported by the almost unconscionable sanction of the presiding judge – precluded the Defense from presenting evidence to the panel that chaining and hooding were approved as official methods of sleep deprivation and/or interrogation. See earlier Enclosure (Memorandum: CJTG 180 Interrogation Techniques). Attention is also directed to the enclosed Article 32 investigative report, with findings and recommendations, in the case of United States v. Beiring. In the latter report, a trained military judge acting as the investigating officer determined that the Defendant's unit had a poorly defined mission and was inadequately trained.

9. **Disparity In Companion Case Disposition and Sentences:** There was a wide range of disparity in terms of disposition and sentence in those between cases associated with charges of alleged detainee abuse at Bagram and handled by overly zealous prosecutors assigned to the Bagram Prosecution Team. See earlier

SUBJECT: Post-Trial Submissions, US v Willie v. Brand, PFC, U.S. Army,
HHB, US ADA Center and Fort Bliss, Fort Bliss, Texas 79916

submitted articles: "**Christopher M. Beiring**"; Investigator: Abuse Charges Should
be Dropped"; "A Look at Afghanistan Abuse Cases,"

Clemency Issues:

10. As noted previously, the Defense requests that you disapprove the findings and sentence. Alternatively, The Defense requests that you disapprove the reduction in rank. An appropriate sentence in this case should be no more severe than a Reprimand. Such punishment would be consistent with that administered to the Defendant's unit commander. As the General Court-Martial Convening Authority acknowledged in the Memorandum of Reprimand issued to Captain Beiring, the unit commander was directly responsible for many of the conditions that gave rise to the underlying facts in this case. It should also be remembered that no adverse action was taken against CPT Carolyn Woods, the MI officer who created the conditions that gave rise to the alleged abuse at Bagram. Upon information and belief, CPT Woods has been promoted and reassigned to a desirable duty position.

11. Moreover, clemency is appropriate in this case for the following reasons:

a. PFC Brand served the United States Army and his country during his deployment to Afghanistan, as well as during several other deployments.

b. PFC Brand, his wife, and his family suffered tremendously while awaiting the disposition of this case at Fort Bliss. See the Chaplain's testimony presented during sentencing.

c. PFC Brand continues to enjoy the respect and confidence of many individuals. See the numerous attached letters of support. These same letters of support come from ordinary US citizens who anxiously await a final decision that will reflect how the US Army treats its soldiers who have risked their lives in support of what the Commander-in-Chief has declared is a very difficult mission in the ongoing War on Terror. The action taken in this case will be a testament to whether the US Army is willing to do the right thing or just do what is politically expedient.

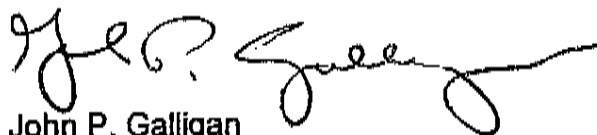
By disapproving the findings and sentence, the Fort Bliss General Court-Martial Convening Authority, together with his legal staff, can effectively align themselves with the ordinary soldiers who are actively engaged in this difficult and dangerous war, even when they sadly find themselves serving under deficient leadership as was acknowledged to exist in this case. Simply stated, PFC Brand should not be asked to pay the price for failed leadership, defective Army doctrine, and inadequate logistical support, as were found to exist in this case.

12. Point of contact for this memorandum is the undersigned at (254) 939-5646. Given the high-profile nature of this case and the important issues yet to be resolved in this

**SUBJECT: Post-Trial Submissions, US v Willie v. Brand, PFC, U.S. Army,
HHB, US ADA Center and Fort Bliss, Fort Bliss, Texas 79916**

**case, the undersigned respectfully requests a personal meeting to further discuss
these matters.**

Thank you for your careful and favorable consideration in this matter.



John P. Galligan
Colonel (ret.), US Army
Civilian Defense Counsel

Encls: as
Trial Audio Tape Recordings

Copy Furnished:

The New York Times
CBS: "60 Minutes"
El Paso Times
Army Times

20051005



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February 3, 2006

MEMORANDUM FOR Commander, Fort Bliss, Fort Hood, Texas 76544.

SUBJECT: Post-Trial Submissions, U. S. v. Willie Brand, PFC, U.S. Army;
HHB, US ADA Center and Fort Bliss, Fort Bliss, Fort Hood, Texas
76544

1. Pursuant to Rule for Court-Martial (R.C.M.) 1105 and 1106, and Articles 38(c) and 60, Uniform Code of Military Justice (U.C.M.J.), the Defense submits the following for consideration in post-trial actions:

The Staff Judge Advocate's Post-Trial Advice Is Factually Misleading and Legally Deficient – A New Post Trial Advice and Service Upon Defense is Necessary:

2. The Defense notes the following legal deficiencies to the Staff Judge Advocate's Post-Trial Advice (Enclosure):

- the Post Trial Advice completely **fails to make any recommendation** to the general court-martial convening authority. Rule for Court-Martial (RCM) 1105(d)(3) clearly specifies that the **Staff Judge Advocate is required** to make a "specific recommendation as to the action to be taken by the convening authority on the sentence." In the instance case, the enclosed SJA's Post Trial Advice, dated December 2, 2005, is **fatally deficient** inasmuch as it contains no such mandatory recommendation;

- moreover, the Post Trial Advice is directed to a general court-martial convening authority who, by his past involvement in companion cases, is legally disqualified from taking action in the instant case;

- additionally, the Post Trial Advice **does not even correctly identify the alleged victims** in the summary of offenses. Specification 4 of Charge I and Specification 4 of Charge II incorrectly identify the alleged terrorist-victim as Dilawar; instead, it should identify the alleged terrorist-victim as Habibullah; and,

- more importantly, the Post Trial Advice **fails to acknowledge that both alleged victims were terrorists - Islamic extremists** apprehended during military operations during the War on Terror in Afghanistan. Bending to obvious

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political and military pressures, the trial in this case became a political show-trial: indeed, the prosecutions' political correctness was perhaps most obvious when trial counsel formally requested the court not to permit the defense even to allude to the alleged victims as "terrorists." The sheer absurdity of the Bagram Prosecution Team's (a collection of trial counsel appointed, funded, and directed from outside Fort Bliss) argument on this matter alone reflects how distanced they were or became from the reality of the ongoing War on Terror.

For reasons outlined above, the Defense respectfully submits that a new and correct Post Trial Advice is required. Furthermore, the new Post Trial Advice must be served upon the Defense so that the Defendant may rightfully exercise the full panoply of rights outlined in RCM 1105 and 1106.

Legal Issues:

3. As reflected in the Post Trial Advice, the Defendant was found Not Guilty, by panel of officers and senior enlisted members, of the great bulk of all charged offenses. The Defense submits that evidence presented at trial was and remains legally insufficient to find PFC Willie Brand guilty of the few remaining charged offenses to which the panel did not otherwise exonerate him. Had the panel been permitted to hear evidence the defense was precluded from presenting because of the erroneous and prejudicial rulings of the military judge (e.g. testimony from Captains Carolyn Wood and/or Christopher Beiring, the panel would more likely than not have acquitted the Defendant completely. Also, inasmuch as the trial judge and the court-martial convening authority refused to permit a verbatim transcription of the trial proceedings, the Defense has been effectively denied an opportunity to effectively portray these same evidentiary deficiencies to the appellate authorities. While national media channels, including The New York Times and CBS "60 Minutes" recognized the high-public profile of the instant case, the Fort Bliss Public Affairs Office (PAO) and the Office of the Staff Judge Advocate at Fort Bliss effectively teamed to prevent the general public from having available to the most reliable and complete record of trial proceedings, i.e. a verbatim transcript.

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requests that copies of the trial audio tapes be attached to the record of trial.

4. The military judge erroneously and prejudicially failed to dismiss the assault charge contained in Specification 1 of Charge I as a lesser included offense of the Additional Charge (maiming) or Specification 1 of Charge (II) (maltreatment). As the appellate courts have correctly held, a Defendant may not be convicted of a greater and lesser offense based on the same conduct. See United States v. Leak, 61 M.J. 234, 249 (2005). The lesser included offenses to which the Defendant was found guilty in this case must therefore be dismissed.

5. The military judge and the general court-martial convening authority erroneously and prejudicially failed to grant the Defendant's request for a post trial Article 39a session. Such post trial session was essential to secure evidence which would establish that the general court-martial convening authority should be precluded from taking post trial action based on the disparate disposition he has taken on companion or related cases.

Inasmuch as the Defense was precluded from securing the aforementioned evidence during an Article 39a session, it is requested that a **copy of the charge sheets and final disposition taken in all of the cases handled by the Bagram Prosecution Team at Fort Bliss be appended to the instant record of trial for appellate consideration.** For the reasons earlier outlined in the Request for Post Trial 39a Session, attached and hereby incorporated as part of this rebuttal, the Defendant continues to insist that the General Court-Martial Convening Authority is disqualified from taking post trial action in this case.

6. The military judge committed legal error by refusing to grant a new or to reopen the Article 32 investigation; by refusing to produce defense-requested witnesses for trial; and by admitting prosecution evidence over Defense objections during the trial. Had the military judge properly ruled on the Defense motions and request, then PFC Brand would have been found Not Guilty of all charged offenses.

7. As a direct result of the military judge's erroneous and prejudicial rulings, the Defense was effectively precluded from demonstrating to the panel members that the Defendant was without proper leadership, training, and guidance. The Beiring Memorandum of Reprimand acknowledges that the unit commander failed miserably in this regard. Those same deficiencies have been recognized by ranking members in the US Congress. Senator McCain, a former prisoner of war himself, acknowledged: "We demanded intelligence without ever clearly telling out troop what was permitted and what was forbidden. And, when things went wrong, we blamed them and we punished them." See Enclosure ("**Senate Approves Detainee Treatment Rules**"). Senator McCain's remarks are directly applicable to the case at hand. PFC Brand has been made the scapegoat for a

failed national policy, defective US Army doctrine, and deficient leadership. See attached article: Emily Bazelon: "From Bagram to Abu Ghraib". The Bagram Prosecution Team zealously went after PFC Brand and sought to portray him as some rogue runaway soldier – well, that same platoon of prosecutors proved to be totally ineffectual in going after any officer or senior NCOs who were directly implicated in the underlying misconduct.

8. The military judge erroneously and prejudicially denied the Defense the opportunity to demonstrate the underlying conditions of alleged maltreatment, i.e. chaining to fixed objects and hooding, were part of officially-sanctioned interrogation techniques. At every stage of the trial, the Bagram Prosecution Team – joined and supported by the almost unconscionable sanction of the presiding judge – precluded the Defense from presenting evidence to the panel that chaining and hooding were approved as official methods of sleep deprivation and/or interrogation. See Enclosure (Memorandum: CJTG 180 Interrogation Techniques). Attention is also directed to the enclosed Article 32 investigative report, with findings and recommendations, in the case of United States v. Beiring. In the latter report, a trained military judge acting as the investigating officer determined that the Defendant's unit had a poorly defined mission and was inadequately trained.

9. **Disparity in Companion Case Disposition and Sentences:** There was a wide range of disparity in terms of disposition and sentence in those between cases associated with charges of alleged detainee abuse at Bagram and handled by overly zealous prosecutors assigned to the Bagram Prosecution Team. See attached articles: "Christopher M. Beiring"; Investigator: Abuse Charges Should be Dropped"; "A Look at Afghanistan Abuse Cases."

Clemency Issues:

10. As noted previously, the Defense requests that you disapproved the limited findings of Guilty. Alternatively, The Defense requests that you disapprove the reduction in rank. An appropriate sentence in this case should be no more severe than a Reprimand. Such punishment would be consistent with that administered to the Defendant's unit commander. As the General Court-Martial Convening Authority acknowledged in the Memorandum of Reprimand issued to Captain Beiring, the unit commander was directly responsible for many of the conditions that gave rise to the underlying facts in this case. It should also be remembered that no adverse action was taken against CPT Carolyn Woods, the MI officer who created the conditions that gave rise to the alleged abuse at Bagram. Upon information and belief, CPT Woods has been promoted and reassigned to a desirable duty position.

11. Moreover, clemency is appropriate in this case for the following reasons:

a. PFC Brand served the United States Army and his country during his deployment to Afghanistan, as well as during several other deployments.

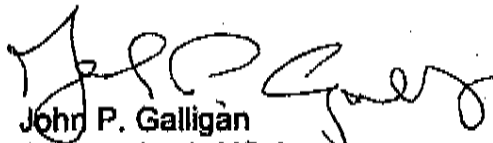
b. PFC Brand, his wife, and his family suffered tremendously while awaiting the disposition of this case at Fort Bliss. See the Chaplain's testimony presented during sentencing.

c. PFC Brand continues to enjoy the respect and confidence of many individuals. See the numerous attached letters of support. These same letters of support come from ordinary US citizens who anxiously await a final decision that will reflect how the US Army treats its soldiers who have risked their lives in support of what the Commander-in-Chief has declared is a very difficult mission in the ongoing War on Terror. The action taken in this case will be a testament to whether the US Army is willing to do the right thing or just do what is politically expedient.

By disapproving the findings and sentence, the Fort Bliss General Court-Martial Convening Authority, together with his legal staff, can effectively align themselves with the ordinary soldiers who are actively engaged in this difficult and dangerous war, even when they sadly find themselves serving under deficient leadership as was acknowledged to exist in this case. Simply stated, PFC Brand should not be asked to pay the price for failed leadership, defective Army doctrine, and inadequate logistical support, as of which were found to exist in this case.

12. Point of contact for this memorandum is the undersigned at (254) 939-5646. Given the high-profile nature of this case and the important issues yet to be resolved in this case, the undersigned respectfully requests a personal meeting to further discuss these matters.

Thank you for your consideration in this matter.


John P. Galligan
Colonel (ret.), US Army
Civilian Defense Counsel

Encls: as

Copy Furnished:

The New York Times
CBS: "60 Minutes"
El Paso Times
Army Times

REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY AIR DEFENSE ARTILLERY CENTER
AND FORT BLISS
1733 PLEASANTON ROAD
FORT BLISS, TEXAS 79916-6816

ATZC-JA

DEC 02 2005

MEMORANDUM FOR Commander, U.S. Army Air Defense Artillery Center and Fort Bliss, Fort Bliss,
Texas 79916

SUBJECT: Staff Judge Advocate's Recommendation in the General Court-Martial Case of U.S. v. PFC
Willie V. Brand

1. This is my recommendation under R.C.M. 1106, MCM, in the General Court-Martial case of
PFC Willie V. Brand, Headquarters and Headquarters Battery, United States Army Air
Defense Artillery Center and Fort Bliss, Fort Bliss, Texas, 79916.

2. Personal Data Concerning Accused:

a. Date of Birth: _____

b. Marital Status: Married

c. Number of Dependents: 5

d. Military Service: 970101-Present, AD

e. Character of Service: Satisfactory

f. Awards and Decorations: ASR, ARCOTR, HSM-1, ARFAM w/"M" DEVICE (2), GWOT-B,
NDSM, OVERSEAS TRAINING RIBBON w/DEVICE (2), KOSOVO CAMPAIGN MEDAL,
AFGHANISTAN CAMPAIGN MEDAL, and AAM.

g. GT Score: 103

h. PMOS: 31B1

i. Education: High School Diploma

j. Nonjudicial Punishment: None

k. Prior Convictions: None

l. Pretrial Restraint: None

20051005

ATZC-IA

SUBJECT: Staff Judge Advocate's Recommendation in the General Court-Martial Case of U.S. v. PFC Willie V. Brand

3. Summary of Charges:

Charge	Art	Spec	Gist of Offense	Plea/Finding
I	128	1	Unlawfully strike Dilawar between o/a 5 Dec 02 and o/a 10 Dec 02.	NG/G
		2	Unlawfully strike Dilawar between o/a 5 Dec 02 and o/a 10 Dec 02.	NG/NG
		3	Unlawfully strike Dilawar between o/a 5 Dec 02 and o/a 10 Dec 02.	NG/NG
		4	Unlawfully strike Dilawar between o/a 30 Nov 02 and o/a 4 Dec 02.	NG/NG
II	93	1	Maltreat Dilawar between o/a 5 Dec 02 and 10 Dec 02.	NG/G
		2	Maltreat Dilawar between o/a 5 Dec 02 and 10 Dec 02.	NG/NG
		3	Maltreat Dilawar between o/a 5 Dec 02 and 10 Dec 02.	NG/NG
		4	Maltreat Dilawar between o/a 5 Dec 02 and 10 Dec 02.	NG/NG
III	134	The	Wrongfully and unlawfully subscribe a false statement o/a 21 Dec 02.	NG/G
Add'l Charge	124	The	Maim Dilawar between o/a 5 Dec 02 and 10 Dec 02.	NG/G

4. The Court adjudged the following sentence: To be reduced to the grade of E-1.

5. This recommendation was served on the defense counsel who had ten days to submit a response. Their response, if any, will be attached to the addendum to this recommendation.



MARK A. RIVEST
COL, JA
Staff Judge Advocate

UNITED STATES

v.

PFC Willie V. Brand
U.S. ArmySERVICE OF RECORD OF
TRIAL AND POST-TRIAL
RECOMMENDATION OF THE
STAFF JUDGE ADVOCATEStaff Judge Advocate, U.S. Army Air Defense Artillery Center and Fort Bliss, Fort Bliss, Texas
79916

TO: John P. Galligan, PLLC, 315 S. Main, Belton, Texas 76513:

Attached is a copy of the recommendation of the Staff Judge Advocate and a copy of the authenticated record of trial in the case of PFC Willie V. Brand. U.S. Army. Pursuant to R.C.M. 1105 and 1106, you have ten days from date of receipt to submit any rebuttal to the matters contained in the recommendation of the Staff Judge Advocate, any omissions you consider pertinent to this case, or any clemency matters. If you desire additional time, you must submit in writing a request that the ten day period required by United States v. Goode, 1 MJ 3 (CMA 1975) and Article 60, UCMJ, be extended prior to the expiration of the ten day period. Failure to submit a rebuttal or other matters or request an extension will constitute a waiver thereof and the record of trial will be forwarded to the convening authority for action. You are requested to return the copy of the record of trial with the matters, if any, by the expiration of the time period for submission.

CHRISTOPHER D. CARRIER
MAJ, JA
Chief, Bagram Prosecution Team

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Austin American Statesman
statesman.com

 **PRINT THIS**

A look at Afghanistan abuse cases

The Associated Press

A look at the cases against 15 soldiers accused of abusing Afghan detainees, including two who later died. The trials have been held at Fort Bliss, Texas.

_ Sgt. James P. Boland, of the reserve 377th Military Police Company in Cincinnati, was initially charged with maltreatment, dereliction of duty and assault. All charges were dropped and he was given a letter of reprimand for dereliction of duty. He has since left the Army.

_ Spc. Brian Cammack, of the 377th MP, pleaded guilty to assault and two counts of making a false official statement. He was sentenced to three months in prison, reduced in rank to private, and given a bad-conduct discharge.

_ Pfc. Willie V. Brand, of the 377th MP, was convicted of assault, maiming, maltreatment and making a false official statement. He was reduced in rank to private.

_ Sgt. Anthony Morden, of the 377th MP, pleaded guilty to one count of assault and two counts of dereliction of duty. He was sentenced to 75 days in prison, reduced in rank to private, and given a bad-conduct discharge.

_ Sgt. Christopher W. Greator, of the 377th MP, was acquitted of charges of assault, maltreatment and making a false official statement.

_ Sgt. Darin M. Broady, of the 377th MP, was acquitted of charges of assault, maltreatment and making a false official statement.

_ Capt. Christopher M. Beiring, commander of the 377th MP, has been charged with dereliction of duty and making a false official statement. A military investigator recommended that all charges be dropped.

_ Staff Sgt. Brian L. Doyle, of the 377th MP, has been charged with dereliction of duty and maltreatment. He was acquitted in a summary court-martial.

_ Sgt. Duane M. Grubb, of the 377th MP, was acquitted of charges of assault, maltreatment and making a false official statement.

_ Sgt. Alan J. Driver, of the 377th MP, has been charged with assault and maltreatment. He is scheduled
<http://statesman.printthis.clickability.com/pt/cpt?action=cpt&title=A+look+at+Afghanist...> 12/31/2005

to stand trial Feb. 6.

_ Spc. Nathan Adam Jones, of the 377th MP, was charged with assault, maltreatment and making a false official statement. All charges have been dropped, though he is likely to receive a letter of reprimand.

_ Spc. Glendale C. Walls, of the 519th Military Intelligence Battalion from Fort Bragg, N.C., pleaded guilty to charges of dereliction of duty and assault. He was sentenced to two months in prison, reduced in rank to private and given a bad-conduct discharge.

_ Sgt. Selena M. Salcedo, of the 519th MI Battalion, pleaded guilty to dereliction of duty and assault. She was reduced in rank to specialist or corporal, fined \$250 a month for four months and given a letter of reprimand.

_ Sgt. Joshua Claus, of the 519th MI Battalion, pleaded guilty Wednesday to charges of maltreatment and assault and was sentenced to five months in prison.

_ Pfc. Damien M. Corsetti, of the 519th MI Battalion, was charged with dereliction of duty, maltreatment, assault, wrongful use of hashish, and performing an indecent act with another person. A trial date has not been set.

December 30, 2005 - 12:49 p.m. CST

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Find this article at:

http://www.statesman.com/news/content/gen/ap/TX_Afghansitan_Prisoner_Abuse_Glance.html

☐ Check the box to include the list of links referenced in the article.



STOP



PLAYING AROUND!

December 22, 2005

Investigator: Abuse charges should be dropped

By Alicia A. Caldwell
Associated Press

FORT BLISS, Texas — Charges against the only officer accused of misconduct in the Afghanistan prisoner abuse case should be dropped because of a lack of evidence, poor training and other problems, an Army official investigating the claims wrote in a report made public Wednesday.

Capt. Christopher M. Beiring, who was in command of the Cincinnati-based 377th Military Police Company at a Bagram, Afghanistan, jail when two prisoners died in December 2002, faces charges of dereliction of duty and making a false official statement.

But in a 22-page report written earlier this month and released Wednesday by a defense lawyer in the case, Lt. Col. Thomas S. Berg suggested Beiring's pending court-martial be dropped.

"Beiring was sorely challenged at every step. He may not have done his duty perfectly, but he did it well," Berg wrote.

Berg is an Army judge who has served as a legal adviser to an MP unit a detention center in Guantanamo Bay, Cuba. The recommendations in his report go to officials at Fort Bliss, who must ultimately decide whether or not to drop the case against Beiring.

Jean Offutt, a Fort Bliss spokeswoman, said Army officials had not yet made a decision Wednesday.

Berg said there was no evidence that Beiring, 39, failed to take specific action, despite being ordered to do so, after the first detainee, a man named Habibullah, died after being mistreated by guards and interrogators in early December 2002. A second detainee, Dilawar, died about a week later after being repeatedly hit in the legs.

Berg also pointed out obstacles, including poor Army training and conflicts with military intelligence interrogators at the jail, that Beiring faced in commanding the reservists in the first year of the war in Afghanistan.

Beiring, who has been at Fort Bliss awaiting court-martial since Sept. 30, said Wednesday he was pleased with the recommendation but would not rest easy until a final decision is made.

Ten enlisted soldiers under Beiring's command were involved in the prisoner abuse case.

So far, four reservists charged in the case have been acquitted, including Staff Sgt. Brian L. Doyle, who this week was acquitted of charges of dereliction of duty and maltreatment during a summary court-martial.

Charges against two others were dropped earlier this year and two reservists have pleaded guilty. Another soldier, former Pfc. Willie V. Brand, was convicted by a military jury.

Awaiting a February trial is Sgt. Alan J. Driver, who stands accused of abusing Omar al-Farouq, a former top Al-Qaida operative in Southeast Asia who escaped from American custody in July.

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DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY AIR DEFENSE ARTILLERY CENTER
AND FORT BLISS
FORT BLISS, TEXAS 79916

REPLY TO
ATTENTION OF:

January 19, 2006

Commanding General

John P. Galligan, Esq.
315 South Main
Belton, Texas 76513

Dear Mr. Galligan:

I have reviewed your 16 January 2006 request for a post-trial court-martial session in *United States v. PFC Willie V. Brand*.

While each of the Bagram cases has its own unique facts and each individual accused must be judged on his own merits, I recognize that you may wish to present for my consideration information concerning the different outcomes that have occurred in the cases stemming from the Bagram Collection Point. In the interest of allowing you full opportunity to submit any matters you deem to be relevant to your client's case, I will withhold my decision on your request for a post-trial hearing until I have reviewed your submissions under RCM 1105. It is my understanding that PFC Brand's R.C.M. 1105 matters were due on January 6, 2006. As that date has passed, I am considering your request for a post-trial hearing as a request for an extension in order to submit R.C.M. 1105 matters. Those submissions are now due on February 3, 2006.

Please rest assured that I will carefully review and consider any matters you submit under Rule for Courts-Martial (RCM) 1105 for my examination. I also assure you that any matters you and your client submit will be thoroughly considered as I have not reached any conclusions regarding final disposition of this case.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Lennox", is written over a horizontal line.

Robert P. Lennox
Brigadier General, United States Army
Commanding