

1 MJ: Specialist Cammack, the maximum punishment authorized in this
2 case based solely on your guilty plea is the jurisdictional limits of
3 the court, which is reduction to private E1, forfeiture of two-thirds'
4 pay per month for 12 months, confinement for 12 months, and a
5 bad-conduct discharge. A fine is not appropriate in your case.

6 On your plea of guilty alone, this court can sentence you to
7 the maximum punishment, which I just stated.

8 Do you understand that?

9 ACC: Yes, sir.

10 MJ: Do you have any questions as to the sentence that could be
11 imposed as a result of your guilty plea?

12 ACC: No, sir.

13 MJ: Specialist Cammack, I have before me what's been marked
14 Appellate Exhibit IV, an offer to plead guilty dated 26 April 2005,
15 and I believe Captain Leone is showing you Appellate Exhibit V, the
16 quantum portion of that agreement.

17 Is that your signature that appears on both of those
18 documents?

19 ACC: Yes, sir.

20 MJ: Did you read them through thoroughly before you signed the
21 documents?

22 ACC: Yes, sir.

23 MJ: Do you understand the contents of your pretrial agreement?

1 ACC: Yes, sir.

2 MJ: Specialist Cammack, did anyone force you in any way to
3 enter into this pretrial agreement?

4 ACC: No, Your Honor.

5 MJ: Specialist Cammack, does the agreement contain all the
6 understandings or agreements that you have in this case?

7 ACC: Yes, sir.

8 MJ: Has anyone made any promises to you that are not written
9 into this agreement in an attempt to get you to plead guilty?

10 ACC: No, sir.

11 MJ: Counsel, are Appellate Exhibits IV and V the full and
12 complete agreement in this case and are you satisfied there are no
13 other agreements?

14 TC: Yes, Your Honor.

15 DC: Yes, sir.

16 MJ: Thank you.

17 Specialist Cammack, a pretrial agreement means that you
18 agree to plead guilty and, in return, the convening authority agrees
19 to take some favorable action in your case, usually in the form of
20 limiting the sentence he will approve.

21 Do you understand that?

22 ACC: Yes, sir.

1 MJ: The law requires that I discuss the conditions of your
2 agreement with you. Let's take a look at Appellate Exhibit IV, the
3 offer portion of your agreement.

4 The first paragraph provides you are the accused in the
5 court-martial now pending; you have examined the charges preferred
6 against you and all the supporting evidence provided by the
7 government; and after consulting with your defense counsel and being
8 fully advised, you have the legal and moral right to plead not guilty
9 and to place the burden of proving your guilt beyond a reasonable
10 doubt on the prosecution. You offer to plead guilty to Charge I and
11 its specifications, as well as Charge III and its specifications, and
12 not guilty to Charge II and its Specification.

13 Did you understand all that when you signed your pretrial
14 agreement?

15 ACC: Yes, sir.

16 MJ: Were you aware of the offenses you would be required to
17 plead guilty to?

18 ACC: Yes, sir.

19 MJ: Paragraph 1(b) provides that you'll enter into a written
20 stipulation of fact with the trial counsel as to the circumstances of
21 the offenses. The stipulation may be used pursuant to the agreement
22 to determine the providence of your guilty plea and to inform the
23 military judge the matters pertinent to an appropriate sentence, and

1 if your plea is not accepted, the offer to stipulate and the
2 stipulation are null and void.

3 Do you understand that provision of your pretrial
4 agreement?

5 ACC: Yes, sir.

6 MJ: Did you understand you'd have to enter into that stipulation
7 at the time you signed the agreement?

8 ACC: Yes, sir.

9 MJ: Did you understand the uses that could be put to that
10 stipulation?

11 ACC: Yes, sir.

12 MJ: And you also understand if for some reason your guilty plea is
13 not accepted then the stipulation and the pretrial agreement will no
14 longer have any effect in your case?

15 ACC: Yes, sir.

16 MJ: Paragraph 1(c) provides that you agree to waive, that is,
17 give up trial by members and to select trial by military judge alone.

18 Is that correct?

19 ACC: That's correct, sir.

20 MJ: Do you understand the difference between trial before
21 members and trial before military judge alone as I explained to you
22 earlier?

23 ACC: Yes, I do, sir.

1 MJ: And do you understand the difference between the various
2 types of trials when you signed your pretrial agreement?

3 ACC: Yes, sir.

4 MJ: Did you understand you were giving up trial by members when
5 you signed your pretrial agreement?

6 ACC: Yes, sir.

7 MJ: Paragraph 1(d) provides if requested you'll cooperate in
8 the subsequent investigation and trials in any cases in which you
9 have personal relevant knowledge relating to detainee abuse at Bagram
10 Collection Point located at Bagram Airfield, Afghanistan; and that
11 cooperation is defined as providing truthful information to
12 investigators, prosecutors, defense counsel, and testifying
13 truthfully at trial; and the agreement to cooperate is conditioned
14 upon your receiving testimonial immunity pursuant to Rule for Court-
15 Martial 704, and is limited to new information uncovered as a result
16 of your cooperation in accordance with this provision and it does not
17 cover any of the charges which you've agreed to plead guilty to. And
18 this agreement is also conditioned upon my acceptance of your guilty
19 plea. If your plea is not accepted, your offer to cooperate is null
20 and void.

21 Do you understand that provision of your pretrial
22 agreement, Specialist Cammack?

23 ACC: Yes, sir.

1 MJ: As far as you know, have you received testimonial immunity
2 yet?

3 ACC: Not yet, sir.

4 MJ: Do you understand what testimonial immunity is?

5 ACC: Yes, sir.

6 MJ: You understand that testimonial immunity only covers new
7 information you provide pursuant to this agreement and not any
8 information that you related to me in conjunction with your offer to
9 plead guilty.

10 Are you clear on that?

11 ACC: Clear, sir.

12 MJ: And do you understand that this is a continuing obligation,
13 even after your case is resolved?

14 ACC: Yes, sir.

15 MJ: Trial Counsel, is the government satisfied with the
16 accused's cooperation to date?

17 TC: Yes, Your Honor.

18 MJ: Paragraph 1(e) provides you agree to request no more than
19 two out-of-state witnesses.

20 Do you understand that provision of your pretrial
21 agreement?

22 ACC: Yes, sir.

1 MJ: Do you understand that under normal Rules for Courts-
2 Martial the government is required to produce at government expense
3 any necessary and relevant witnesses for your case, to include for
4 sentencing?

5 ACC: Yes, sir.

6 MJ: And have you requested the government to produce two out-
7 of-state witnesses?

8 ACC: Yes, sir.

9 MJ: Have they met up with this requirement of the agreement?

10 ACC: Yes, sir.

11 MJ: Did anyone force you to include this provision in your
12 pretrial agreement?

13 ACC: No, sir.

14 MJ: Paragraph 1(f) provides in the event a punitive discharge
15 is adjudged you agree to submit a request for voluntary excess leave
16 after sentence is announced, or if any confinement is adjudged, prior
17 to being released from confinement.

18 Do you understand that provision of your pretrial
19 agreement?

20 ACC: Yes, sir.

21 MJ: Do you understand a punitive discharge in this case means a
22 bad-conduct discharge?

23 ACC: Yes, sir.

1 MJ: And do you also understand that if you are in voluntary
2 excess leave status you are not normally entitled to any pay or
3 benefits while you are in that status?

4 ACC: Yes, sir.

5 MJ: Did anyone force you to include this provision into your
6 pretrial agreement?

7 ACC: No, sir.

8 MJ: Do you understand that provision of your pretrial
9 agreement?

10 ACC: Yes, sir.

11 MJ: Paragraph 1(g) provides you agree to waive all waivable
12 motions.

13 Captain Leone, do you think there's a factual basis for any
14 motions covered by this provision?

15 DC: No motions, Your Honor.

16 MJ: Specialist Cammack, have you discussed that provision with
17 Captain Leone?

18 ACC: Yes, sir.

19 MJ: And do you agree that there's no factual or legal basis for
20 any motions covered by that provision?

21 ACC: Correct, sir.

22 MJ: Do you understand that provision of your pretrial
23 agreement?

1 ACC: Yes, sir.

2 MJ: Did anyone force you to include that provision in your
3 pretrial agreement?

4 ACC: No, sir.

5 MJ: Paragraph 1(h) provides you've been informed of your right
6 to file a motion under Article 13 of the Uniform Code of Military
7 Justice, or otherwise inform the court of any treatment rising to the
8 level of restriction tantamount to confinement. You also understand
9 the remedy which you would be entitled to if such a motion were
10 successful, and as of the day you filed your offer to plead guilty,
11 which was 26 April this year, you have not been punished in any way
12 prior to trial that would constitute illegal pretrial punishment
13 under Article 13 or rise to the level of restriction tantamount to
14 confinement.

15 Do you understand that provision of your pretrial
16 agreement, Specialist Cammack?

17 ACC: Yes, sir.

18 MJ: Specialist Cammack, have you spoken with Captain Leone
19 about Article 13?

20 ACC: Yes, sir.

21 MJ: Do you understand what Article 13 prohibits?

22 ACC: Yes, sir.

1 MJ: And you agree you have not been punished prior to trial in
2 violation of Article 13?

3 ACC: Yes, sir.

4 MJ: Has your freedom of movement been limited in any way prior
5 to trial?

6 ACC: [Conferring with his counsel.] The only restriction down
7 here is I wasn't allowed to leave post, sir.

8 MJ: So you--have your pass privileges been withdrawn?

9 ACC: Yes, sir.

10 MJ: Were you subject to any type of sign-in requirement?

11 ACC: No, sir.

12 MJ: Captain Leone, are you aware of any limitation placed on
13 Specialist Cammack's liberty that arise to the level of restriction
14 tantamount to confinement?

15 DC: No, Your Honor. To my understanding, aside from Specialist
16 Cammack not being allowed to leave post; he was treated very well by
17 his unit; allowed to go anywhere on Fort Bliss that he needed to go;
18 and actually, his commander made arrangements that for the purpose of
19 this trial if he needed to go off post, to the airport, for any
20 reason, that he was okay. So there seems to be no issues at all from
21 the defense for an Article 13 or restriction tantamount to
22 confinement, Your Honor.

23 MJ: Thank you.

1 Specialist Cammack, do you understand the concept of
2 restriction tantamount to confinement?

3 ACC: Yes, sir.

4 MJ: Do you believe you've been restricted tantamount to
5 confinement?

6 ACC: No, sir.

7 MJ: Paragraph 2 provides in exchange for your actions that
8 we've just covered in paragraph 1, the convening authority agrees to
9 take several actions, including the action specified in Appendix I to
10 the offer, which we've marked as Appellate Exhibit V. We're going to
11 talk more about the quantum portion in a minute, but do you
12 understand that provision of your pretrial agreement, Specialist
13 Cammack?

14 ACC: Yes, sir.

15 MJ: Paragraph 2(b) provides the convening authority agrees to
16 direct the trial counsel to offer no additional evidence on Charge II
17 and its Specification, so that a finding of not guilty will be
18 entered thereon by the military judge.

19 Do you understand that provision of your pretrial
20 agreement?

21 ACC: Yes, sir.

22 MJ: So you understand the government is not going to go forward
23 on that Charge and its Specification, are you clear on that?

1 ACC: Yes, sir.

2 MJ: Paragraph 3 provides you are satisfied with Captain Leone,
3 your detailed defense counsel; he's advised you of the meaning and
4 effect of your guilty plea, which you understand; and no one has made
5 any attempt to force or coerce you into making your offer to plead
6 guilty.

7 Do you understand that provision of your pretrial
8 agreement?

9 ACC: Yes, sir.

10 MJ: And you are satisfied with Captain Leone's service as your
11 defense counsel?

12 ACC: Yes, sir.

13 MJ: Paragraph 4 provides the agreement will become null and
14 void or cancelled upon the occurrence of any of the following events,
15 including failure to agree on the contents of the stipulation of
16 fact.

17 Do you understand that provision?

18 ACC: Yes, sir.

19 MJ: But you have agreed on those two stipulations, which I've
20 received into evidence as Prosecution Exhibits 1 and 2 as well as
21 their enclosures, is that right?

22 ACC: That's right, sir.

23 MJ: And you understand if for some reason I don't accept your

1 guilty plea then the agreement will take--will have no effect in your
2 case.

3 Are you clear on that?

4 ACC: Yes, sir.

5 MJ: Paragraph 4(b) provides [the agreement will be cancelled]
6 if you withdraw from your pretrial agreement before it is accepted by
7 me.

8 Do you understand that provision?

9 ACC: Yes, sir.

10 MJ: Paragraph 4(c) states the agreement will be cancelled if
11 you withdraw from the--the government withdraws from the agreement
12 for any reason before your plea is accepted.

13 Do you also understand that provision?

14 ACC: Yes, sir.

15 MJ: Paragraph 4(d) provides the agreement will be cancelled if
16 I refuse to accept your guilty plea or if I change your guilty plea
17 at any time during your trial.

18 Do you understand that provision?

19 ACC: Yes, sir.

20 MJ: So if any of those things happen, then the provision--the
21 pretrial agreement's null and void completely.

22 Do you understand all that?

23 ACC: Yes, sir.

1 MJ: And paragraph 5 states the agreement won't be affected by
2 the dismissal of any specifications or charges on motions by either
3 party or by me, the military judge.

4 Do you understand that provision?

5 ACC: Yes, sir.

6 MJ: So if, for example, I dismiss one of the specifications of
7 Charge III for any reason, then your pretrial agreement will still be
8 in effect.

9 Is that what you understand it to mean?

10 ACC: Yes, sir.

11 MJ: Finally, paragraph 6 indicates this writing, including the
12 quantum portion, includes all terms and conditions of your offer to
13 plead guilty, contains all promises made to you or by you concerning
14 your plea of guilty, and there are no other terms or conditions not
15 contained in the writing.

16 Do you understand that provision of your pretrial
17 agreement?

18 ACC: Yes, sir.

19 MJ: So you understand unless it is written down in either your
20 offer or the quantum portion, which we've marked as Appellate
21 Exhibits IV and V, there are no other agreements binding on you or
22 the convening authority in your case.

23 Are you clear on that?

1 ACC: Yes, sir.

2 MJ: Specialist Cammack, I am not going to look at Appellate
3 Exhibit V, the quantum portion, until after I announce the sentence
4 in your case, but I want you to now look at the quantum portion now
5 and read it to yourself.

6 [The accused did as directed.]

7 MJ: Specialist Cammack, does that document correctly state what
8 you and the convening authority agreed to?

9 ACC: Yes, sir.

10 MJ: Counsel, are there any conditions or terms in the quantum
11 portion other than a limitation on sentence?

12 DC: No, sir.

13 TC: No, Your Honor.

14 MJ: Thank you.

15 Specialist Cammack, you get the benefit of whichever is
16 less, each element of the sentence of the court or that contained on
17 your pretrial agreement. If the sentence adjudged by this court is
18 greater than the one provided in the pretrial agreement, the
19 convening authority must reduce the sentence to one no more severe
20 than the one in your pretrial agreement. On the other hand, if the
21 sentence of this court is less than the one in your agreement, the
22 convening authority cannot increase the sentence adjudged.

23 Do you understand that?

1 ACC: Yes, sir.

2 MJ: Now, if your ETS date arrives while you are serving
3 confinement as part of your sentence, then all your military pay and
4 allowances will stop on your ETS date.

5 Do you understand that?

6 ACC: Yes, sir.

7 MJ: Specialist Cammack, have you had enough time to discuss
8 your pretrial agreement with Captain Leone?

9 ACC: Yes, sir.

10 MJ: Are you satisfied with Captain Leone's advice concerning
11 your pretrial agreement?

12 ACC: Yes, sir.

13 MJ: Did you enter into the agreement of your own free will?

14 ACC: Yes, sir, I did.

15 MJ: Has anyone tried to force you to make your pretrial
16 agreement?

17 ACC: No, sir.

18 MJ: Do you have any questions at all about your pretrial
19 agreement?

20 ACC: No, sir.

21 MJ: Do you fully understand all the terms of the pretrial
22 agreement and how they affect your case?

23 ACC: Yes, sir.

1 MJ: Specialist Cammack, are you pleading guilty not only
2 because you hope to receive a lighter sentence but also because you
3 are convinced that you are in fact guilty?

4 ACC: Yes, sir.

5 MJ: Do counsel for both sides agree with the court's
6 interpretation of the pretrial agreement?

7 TC: Yes, Your Honor.

8 DC: Yes, sir.

9 MJ: Thank you.

10 Captain Leone, have you had enough time and opportunity to
11 discuss this case with Specialist Cammack?

12 DC: Yes, I have, Your Honor.

13 MJ: Specialist Cammack, have you had enough time and
14 opportunity to discuss your case with Captain Leone?

15 ACC: Yes, sir.

16 MJ: Specialist Cammack, have you in fact consulted fully with
17 Captain Leone and received the full benefit of his advice?

18 ACC: Yes, sir.

19 MJ: And are you satisfied that Captain Leone's advice is in
20 your best interest?

21 ACC: Yes, sir.

22 MJ: And are you satisfied with Captain Leone as your defense
23 counsel?

1 ACC: Yes, sir.

2 MJ: Are you pleading guilty voluntarily and of your own free
3 will?

4 ACC: Yes, sir.

5 MJ: Has anyone made any threat or tried in any way to force you
6 to plead guilty?

7 ACC: No, sir.

8 MJ: Do you have any questions as to the meaning and effect of a
9 plea of guilty?

10 ACC: No, sir.

11 MJ: Do you fully understand the meaning and effect of your plea
12 of guilty?

13 ACC: Yes, sir.

14 MJ: Do you understand even though you believe you are guilty
15 you have the legal and moral right to plead not guilty and to place
16 upon the government the burden of proving your guilty beyond a
17 reasonable doubt?

18 ACC: Yes, sir.

19 MJ: Take a moment now and consult again with Captain Leone and
20 then tell me again whether you still want to plead guilty.

21 [The accused did as directed.]

22 ACC: Yes, sir, I still want to plead guilty.

23 MJ: Very well.

1 Specialist Cammack, I find your plea of guilty is made
2 voluntarily and with full knowledge of its meaning and effect. I
3 further find that you have knowingly, intelligently, and consciously
4 waived your rights against self-incrimination, to a trial of the
5 facts by a court-martial, and to be confronted by the witnesses
6 against you. Accordingly, your plea of guilty is provident and it is
7 accepted; however, I advise you that you may request to withdraw your
8 guilty plea at any time before the sentence is announced and, if you
9 have a good reason for your request, I will grant it.

10 Trial Counsel, I presume in conformance with the pretrial
11 agreement you will not be going forward on Charge II and its
12 Specification?

13 TC: That's correct, Your Honor.

14 MJ: Very well.

15 Accused and counsel, please rise.

16 [The accused and his counsel did as directed.]

17 MJ: Specialist Brian E. Cammack, in accordance with your plea
18 of guilty, this court-martial finds you:

19	Of Charge I and its Specification:	Guilty.
20	Of Charge II and its Specification:	Not Guilty.
21	Of Charge III and its Specifications:	Guilty.

22 Please be seated.

23 [The accused and his counsel did as directed.]

1 MJ: Counsel, we'll take a 10-minute comfort break. When we
2 come back on the record, we'll take up sentencing matters.

3 The court's in recess.

4 [The court-martial recessed at 0950, 20 May 2005.]

5 [The court-martial was called to order at 1002, 20 May 2005.]

6 MJ: The court is called to order. All parties are present as
7 before.

8 Specialist Cammack, we now enter the sentencing phase of
9 the trial where you have the right to present matters in extenuation
10 and mitigation, that is, matters about the offenses or yourself which
11 you want me to consider in deciding your sentence. In addition to
12 the testimony of witnesses and the offering of documentary evidence,
13 you may yourself testify under oath as to these matters or you may
14 remain silent, in which case I will not draw any adverse inference
15 from your silence. On the other hand, if you desire, you may make an
16 unsworn statement. Because the statement is unsworn, you cannot be
17 cross-examined on it. However, the government may offer evidence to
18 rebut any statement of fact contained in an unsworn statement. An
19 unsworn statement may be made orally, in writing, or both; it may be
20 made by you, by your counsel on your behalf, or by both.

21 Do you understand these rights?

22 ACC: Yes, sir.

1 MJ: Counsel, is the personal data in the front page of the
2 charge sheet correct?

3 DC: Appears correct, Your Honor.

4 MJ: No pretrial restraint in this case?

5 DC: None, Your Honor.

6 MJ: Government, do you agree?

7 TC: Yes, Your Honor.

8 MJ: Pay is correct, Captain Leone?

9 DC: Looks correct, Your Honor.

10 MJ: I think it should be \$1,957.80, E4 over 6, correct?

11 DC: Roger, sir.

12 MJ: I am going to make it \$1,957.80 to comply with the pay
13 chart.

14 DC: Roger. No objection from the defense, Your Honor.

15 TC: Okay, Your Honor.

16 MJ: I've made that change to blocks 7(a) and (c) of the charge
17 sheet.

18 MJ: Trial Counsel, any other evidence to present? You got an ERB,
19 2-1 for me?

20 TC: Your Honor, we have a 2-1, which--we have actually two
21 separate exhibits, DA Form 2A has been marked as government's
22 [Prosecution Exhibit] 3, and DA Form 2-1 has been marked as government's
23 [Prosecution Exhibit] 4. Additionally, Your Honor, we have excerpts

1 from the 201 file of Specialist Brian Cammack provided by the 377th MP
2 Company and certified by the unit administrator, Ms. Maryanne Plummer.
3 Those have been marked as government's [Prosecution Exhibit] 5.

4 MJ: Any objection to [Prosecution Exhibits] 3, 4, or 5 for
5 identification, Captain Leone?

6 DC: The only objection at all, Your Honor, I think maybe one
7 correction that he just told me.

8 MJ: Which one do you need, [Prosecution Exhibit] 4?

9 DC: May I approach, Your Honor.

10 MJ: Yes. I am giving [you] Prosecution Exhibit 4 for
11 identification.

12 DC: Roger. We are just making one change to Prosecution Exhibit
13 4, Your Honor. It says that he went to Cuba when he went to Guatemala
14 instead. I am really not sure how to spell it.

15 MJ: Vernacular is fine.

16 DC: I apologize if I misspelled it, Your Honor.

17 MJ: There being no objection, Prosecution Exhibits 3, 4, and 5 are
18 received in evidence.

19 TC: Your Honor, the government has no further evidence.

20 MJ: No witnesses?

21 TC: No witnesses, Your Honor.

22 MJ: Defense, are you ready to proceed?

23 DC: Yes, sir. Before I call my next witness, Your Honor, I'd like

1 to enter into evidence what I believe has been previously marked as
2 Defense Exhibits A and B. Defense Exhibit A is a stipulation of
3 expected testimony from Sergeant Brewer; and Defense Exhibit B is--I
4 believe it is two statements; one from Specialist Cammack's mom and dad,
5 another from a family friend, and I believe two certificates that are in
6 that packet, Your Honor.

7 MJ: All right.

8 TC: No objection on the part of the government.

9 MJ: Well, let's take up [Defense Exhibit] B first. No objection
10 to Defense Exhibit B for identification?

11 TC: No, Your Honor.

12 MJ: Defense Exhibit B is received in evidence.

13 Captain Leone, do you have a copy of Defense Exhibit A there?

14 DC: Somewhere I do, sir, just give me one second [looking for the
15 document].

16 Yes, sir.

17 MJ: Specialist Cammack, I am looking at Defense Exhibit A for
18 identification.

19 Is that your signature that appears on the document?

20 ACC: Yes, sir.

21 MJ: Now, before signing that document, which is a stipulation of
22 expected testimony of Sergeant Michael Brewer, did you read it through
23 thoroughly?

1 ACC: Yes, sir.

2 MJ: Do you understand the contents of the stipulation?

3 ACC: Yes, sir.

4 MJ: Do you agree with the contents of the stipulation?

5 ACC: Yes, sir.

6 MJ: Before signing the stipulation, did Captain Leone explain the
7 stipulation to you?

8 ACC: Yes, sir.

9 MJ: Do you understand that you have an absolute right to refuse to
10 stipulate to the contents of that document?

11 ACC: Yes, sir.

12 MJ: And you should enter into this stipulation only if you believe
13 it is in your best interest to do so.

14 Do you understand that?

15 ACC: Yes, sir.

16 MJ: Now, Specialist Cammack, I want to ensure you understand how
17 this stipulation is to be used. When counsel for both sides and you
18 agree to a stipulation of expected testimony, you're agreeing that if
19 Sergeant Brewer were present in court and testifying under oath he would
20 testify substantially as set forth in the stipulation. The stipulation
21 does not admit the truth of the person's testimony and the stipulation

22

1 be contradicted, attacked, or explained in the same way as if Sergeant
2 Brewer was testifying here in court.

3 Do you understand that?

4 ACC: Yes, sir.

5 MJ: Now, Specialist Cammack, knowing what I have told you and what
6 your defense counsel earlier told you about the stipulation, do you
7 still desire to enter into the stipulation?

8 ACC: Yes, sir.

9 MJ: Do counsel concur on the contents of the stipulation?

10 TC: Yes, Your Honor.

11 DC: Yes, sir.

12 MJ: The stipulation is received into evidence as Defense
13 Exhibit A.

14 What's next, Captain Leone?

15 CHARLES D. HOWELL, civilian, was called as a witness for the defense,
16 was sworn, and testified as follows:

17 DIRECT EXAMINATION

18 Questions by the defense counsel:

19 Q. Please give your name and where you are from for the
20 record.

21 A. My name is Charles David Howell; I am from
22

1 Q. And what do you do for a living?

2 A. I am a branch manager for a facility maintenance company,
3 in the landscape division.

4 Q. Could you please tell the court how you know Specialist
5 Brian Cammack?

6 A. Brian Cammack is my nephew from my sister.

7 Q. Now, I'd like to talk to you a little bit about your
8 family.

9 If you could, explain to the court what kind of family
10 Brian comes from and how close you are to him?

11 A. Brian was, as my family was, raised in a very rural area in
12 the country. We're a very close knit. He was raised with religion,
13 truth, and values; disciplined; hard working.

14 Q. Were you--you live in now?

15 Did you use to live in Kentucky?

16 A. Yes, I just moved to--I lived in Cincinnati and northern
17 Kentucky my whole life until December of 2004 [when] I moved to
18 Tampa.

19 Q. So were you around when Brian was a young man growing up?

20 A. Yes, I was.

21 Q. Had much interaction with him as a youth?

22 A. Actually, I did. My sister is a little bit older than me
23 and I would spend time at the house when he was a young, young boy.

1 growing up. We've worked together. A lot of our friends had farms
2 and we would have helped them out on the farm.

3 Q. What kind of farm, sir?

4 A. Mostly tobacco farms, some hay, cattle, things like that.
5 They were all family farms; it was small farms that really didn't pay
6 for themselves, so our friends, also like us, worked another job.
7 But they were good friends, we either met from church or relation or
8 something; and Brian, myself, and his dad would often help different
9 people out, not for pay but sometimes we would take pay, you know, if
10 it was appropriate, [if] we thought they were making enough money;
11 but most of the time we were just helping to keep their farms from
12 going bankrupt or something.

13 Q. Is that because of how close of a community you all come
14 from?

15 A. Yes.

16 Q. Okay. Was Brian a troublemaker growing up?

17 A. Absolutely not.

18 Q. Was he a respectful young man?

19 A. Very respectful, "yes, sir," "no ma'am."

20 Q. Now, in addition to helping out in the farms, have you ever
21 had any other chance to work with Brian?

22 A. Yes. For 3 years he worked for the same company I did.

23 Q. What company is that?

1 A. It's a facility maintenance company.

2 Q. And what kind of work did Brian do there?

3 A. He was an assistant foreman. He started out as a laborer
4 on a grass-mowing crew, landscape maintenance crew I should say; it
5 was more than grass mowing. Then he was assistant foreman for that
6 crew.

7 Q. How old was Brian when he was doing this for you?

8 A. Let's see, it was '97 to 2000.

9 Q. So he was probably teenager, early 20s, somewhere in there?

10 A. Yes.

11 Q. If you could, please, tell the court a little bit about
12 what his responsibilities were. Now, you said he was a foreman, but
13 what exactly did that [inaudible]?

14 A. He was an assistant foreman. The particular crew that he
15 was on, his foreman was a very good horticulturist, but he didn't
16 have really customer-relations skills. He was extremely quiet,
17 didn't talk much, and I started to rely on Brian to be my guy to
18 develop a relationship with my customers, to take care of my
19 customers needs. He did most of the talking because, you know, like
20 most people, you know, people in that position, facility managers,
21 they know a good person when they see one, they know somebody that
22 could communicate their needs. I think Brian expressed that,

23

1 expressed that value every day. He cared about what he did and the
2 customers could relate to that, so I kind of depended on Brian to
3 take care of that part.

4 Q. Did he work directly for you, sir?

5 A. Yes, sir, he did.

6 Q. Was he reliable?

7 A. Very reliable. Brian took some--after 2 years, I think,
8 you know after a year you get vacation, he took his vacation time. I
9 think we may have paid him out one time when he didn't take a whole
10 week, but Brian is not a person to call in sick ever.

11 Q. Was there ever a time when he could have called in sick but
12 didn't?

13 A. Oh, absolutely. I was just thinking one time he had a
14 pretty bad motorcycle wreck and the whole side of his leg was just
15 terrible, it was scraped up, and he was in a lot of pain from it;
16 but, you know, he wouldn't miss work. He felt like he was letting
17 down the other people in the crew because in our type of business you
18 don't have a surplus of people. If a person misses a day, the other
19 person just has to work that much harder. So he was dedicated, he
20 was dedicated to his crew and his company.

21 Q. Is he a trustworthy individual, sir?

22 A. Absolutely.

23

1 Q. Now, sir, he is your nephew and you've said some positive
2 things about him.

3 Would you have said these things if he wasn't your nephew?

4 A. I would not have came down here if he wasn't worth the
5 effort to come down here and speak about it.

6 Q. And that's not because he's your nephew, but because he's
7 also the kind of person that you know he is?

8 A. It's the kind of person that he is. He deserves all of our
9 support. I know his mother and father are very disappointed, they
10 are in Chicago. I think they are actually on their way down here
11 now, but they've been trying to get down here for almost 24 hours
12 now.

13 Q. And they were actually caught in a storm recently?

14 A. Yes, the thunderstorms in the Midwest.

15 Q. Now, sir, you stated earlier that, you know, Brian was
16 raised in a tight-knit family; religious background; and, you know,
17 one of the traits he's been [inaudible] in is honesty, correct?

18 A. Yes.

19 Q. Did it surprise you to find out that one of his offenses
20 was basically giving two false statements?

21 A. Yes, it did. It surprised all of us. At first, I think we
22 really didn't have privy to much information at all, and I felt that
23 this whole thing would be something that would blow over and I'd

1 never hear anything about it. I never even asked, directly asked
2 Brian about how serious it was or anything else and we were
3 surprised, but I have never been in the military, I've never been in
4 that type of situation. I can imagine it's very stressful. Brian's
5 never--as far as my knowledge, Brian has never hit anybody, he's
6 never picked a fight, he's never hurt anything, he's never hurt
7 anybody.

8 Q. So finding out that he did a battery and also gave two
9 false statements, it's something that to you wasn't very
10 characteristic of Brian, was it?

11 A. No, no, not at all.

12 Q. Now, have you had a chance to talk to Brian a little bit
13 about, you know, what happened? Not in depth but----

14 A. Not in depth, but yes, a little bit about what happened.

15 Q. Did he express regret to you at all?

16 A. Absolutely.

17 Q. Did he seem remorseful, then?

18 A. Yes.

19 Q. You know Brian pretty well, don't you, sir?

20 A. Yes, I do.

21 [END OF PAGE]

22

1 Q. Do you think this remorse was sincere or do you think it
2 was just putting on a show?

3 A. Oh, it was very sincere. He felt that he's let the
4 military down and his family down.

5 Q. Do you remember yesterday when I read to you, when we were
6 speaking and I read to you the definition of rehabilitative
7 potential?

8 A. I'm sorry, can you repeat that?

9 Q. Remember yesterday when we were speaking, last night
10 actually, I read you a definition of rehabilitative potential?

11 A. Yes.

12 Q. Do you think that Brian has rehabilitative potential?

13 A. Absolutely.

14 Q. Sir, is there anything else you'd like to tell the court
15 about your nephew?

16 A. Just that, I mean, I hope that you can see into Brian. I
17 think he's an American; he's one of the definitions that you would
18 find. He's dedicated to his family, he's dedicated to his country.
19 I know the mistake, I know he made a serious mistake, and I am not
20 making excuses for him. I am glad that he stood up and admitted to
21 these mistakes. I do feel bad for the other people that was

22

1 involved, but Brian Cammack I think will be a very--can still be a
2 very good soldier, definitely a very good civilian, and also a very
3 good American.

4 DC: Thank you, sir. I don't have any further questions.
5 Captain Parker may have a couple.

6 TC: Nothing from the government, Your Honor.

7 [The witness was excused, and assumed a seat in the gallery of the
8 courtroom.]

9 civilian, was called as a witness for the defense,
10 was sworn, and testified as follows:

11 DIRECT EXAMINATION

12 Questions by the defense counsel:

13 Q. Could you please give us your name and tell us where you
14 are from for the record, please?

15 A. from

16 Q. Where is , located?

17 A. About 30 minutes south of Cincinnati.

18 Q. And what is your occupation, please?

19 A. I am a paralegal.

20 Q. Is that for a law firm in

21 A. Actually,

22

1 Q. Okay. Please tell the court how you know Specialist Brian
2 Cammack?

3 A. We're engaged.

4 Q. So he's your fiancé?

5 A. Yes.

6 Q. And how long have the two of you been engaged for?

7 A. Since December.

8 Q. Of 2004?

9 A. Yes, sir.

10 Q. Okay. And how long have you known Specialist Cammack for?

11 A. Since September of 2004.

12 Q. And when have are all scheduled to get married?

13 A. October 8th of this year.

14 Q. That's October 2005?

15 A. Yes, sir.

16 Q. And, just briefly, what are your plans after you get
17 married?

18 A. Once we get settled with ^{a UPS} the house, we are going to start a
19 family.

20 Q. I'd like to talk to you a little bit about Specialist
21 Cammack. I'd really like to get you to describe for the court what
22 kind of person he is; so if you please, in your opinion, please tell
23

1 the military judge what kind of individual Specialist Cammack is,
2 what kind of person he is.

3 A. He's sincere, compassionate, hard-working, he's always
4 there if someone needs something, he will do whatever he can to
5 either make sure that they get it or have someone get it for them.

6 Q. Now, in your opinion, how does he treat other people?

7 A. He's very respectful.

8 Q. Did he go out of his way to help folks?

9 A. Yes.

10 Q. Do you know if he volunteers back home?

11 A. I don't think so at this time.

12 Q. Okay. Do you know if in the past he volunteered?

13 A. Yes, sir, he has.

14 Q. You're probably the best person to talk about that, right?

15 A. Yes.

16 Q. Now, you met him in September 2004 and you all got engaged
17 pretty quickly thereafter, right?

18 A. Yes.

19 Q. How did you come to meet Specialist Cammack?

20 A. We were on vacation in Tennessee and we met up through some
21 mutual friends. We hit it off and pretty much we've been talking
22 ever since; we started dating, and just kind of snowballs from there.

23

1 Q. So it was a good vacation, then?

2 A. Yes, very good.

3 Q. Is he a family-oriented type of individual?

4 A. Yes, sir, very family-oriented.

5 Q. How does your family feel about Specialist Cammack?

6 A. They think very highly of him. He--before he asked me to
7 marry him, he went through my whole entire family, my father, my
8 mother, my brother, and asked for their permission and their
9 blessing, and it was given very freely.

10 Q. So he treats your family with respect then, doesn't he?

11 A. Very much so.

12 Q. Now, you--ma'am, you understand why he's here today, right?

13 A. Yes, sir.

14 Q. You actually sat through the providence inquiry and you
15 heard what occurred, right?

16 A. Yes.

17 Q. When did you have, first have an idea that something was
18 wrong?

19 A. In March. He had said that there might be some
20 repercussions from some things that occurred in Afghanistan, but we
21 didn't get into specifics and he just said we would have to wait and
22 see.

23

1 Q. Have you had a chance to talk to him a little bit about
2 what occurred?

3 A. Not in specifics, but he had explained what had occurred.

4 Q. So he kind of explained why he was charged, right?

5 A. Yes.

6 Q. Did he express any kind of regret for [sic] you, any regret
7 to you, any remorse?

8 A. Yes, he did.

9 Q. You probably know about it better than anybody does in
10 that, don't you?

11 A. Yeah.

12 Q. Was he remorseful and sincere at all?

13 A. He was very sincere. He's not a false person on any level.

14 Q. Do you think that this situation had an impact on him?

15 A. Yes, in more ways than one.

16 Q. Why do you say that?

17 A. He just--he's very--anytime he talks about it, he just gets
18 very upset.

19 Q. It's something he truly regrets, then, in your opinion?

20 A. In my honest opinion, yes.

21 Q. Now, you understand that one of the punishments that this
22 court could impose on Specialist Cammack today is up to a year in
23 confinement, correct?

1 A. Yes.

2 Q. Will you be there for him if he gets sentenced to a year?

3 A. Yes.

4 Q. No matter what happens, will you be there for him?

5 A. Yes.

6 Q. Is there anything else you'd like to tell the military
7 judge about your fiancé?

8 A. He's just--I wouldn't be engaged to him today if I didn't
9 think that he was the kind of person that I wanted to spend the rest
10 of my life with and raise a family with.

11 DC: Thank you, ma'am. I don't have any further questions.

12 Captain Parker may have a few.

13 TC: No cross, Your Honor.

14 [The witness was excused and assumed a seat in the gallery of the
15 courtroom.]

16 DC: Sir, at this time, we would like to call Specialist Cammack
17 for an unsworn statement.

18 MJ: Very well.

19 DC: With your permission, I'd like to have him take the witness
20 stand.

21 MJ: That's fine.

22

UNSWORN STATEMENT

1
2 SPECIALIST BRIAN E. CAMMACK, the accused, took the witness stand and
3 made the following statement:

4 DC: If you would, just for the record, give your name, rank,
5 and unit, please.

6 ACC: Specialist Brian E. Cammack, 377th Military Police Company.

7 DC: And where is that out of, Specialist Cammack?

8 ACC: Cincinnati, Ohio, sir.

9 DC: How are you currently, I guess attached to?

10 ACC: HHB Center, here on Fort Bliss, Texas, sir.

11 DC: And that's for the purposes of this court-martial?

12 ACC: Yes, sir.

13 DC: And how long have you been here in Fort Bliss?

14 ACC: Approximately 5 weeks, sir.

15 DC: Now, these incidents that happened, Specialist Cammack,
16 took place I believe it was back--was it in 2002?

17 ACC: Yes, sir.

18 DC: When were you deactivated after you left Afghanistan?

19 ACC: April of 2003, sir.

20 DC: And from that time until when you were brought here to Fort
21 Bliss you were just, I guess, with just a normal Reserve duty and
22 went back home in Kentucky?

23 ACC: Yes, sir.

1 DC: Now, when did you join the Reserves, Specialist Cammack?

2 ACC: August of 1995, sir.

3 DC: What is your current MOS?

4 ACC: 31B, military police, sir.

5 DC: Is that the only MOS you've had in the military?

6 ACC: No, I was--I've also been a 91B, which is medical
7 specialist, and I've done the--the military has now done away with
8 the MOS, I am now a 91W, which is a medical care specialist.

9 DC: Is that what you initially came in the military as?

10 ACC: Yes, sir.

11 DC: How come you transferred over to be a military police
12 officer?

13 ACC: I was originally assigned to the military police company as
14 a medic. A few years down the road, they lost their medical slots.
15 I was given a certain timeframe to find a medical unit. I only found
16 two medical units within a 4-hour drive of my house, both of them was
17 overstaffed and was accepting anyone. I fell out of that timeframe
18 being able to transfer and I was sent to military police school, sir.

19 DC: And you've been a military police officer since?

20 ACC: Yes, sir.

21 DC: Now, in addition to your deployment to Afghanistan, where
22 else have you, I guess been deployed to or mobilized to go?

23 ACC: I have done humanitarian missions in Guatemala and Panama,

1 and I did Operation Bright Star in Egypt, sir.

2 DC: And that was--when was Operation Bright Star, do you
3 remember correctly?

4 ACC: October of 2001, sir.

5 DC: Now, I want to talk a little bit or have you talk a little
6 bit about where you grew up.

7 Where did you grow up?

8 ACC: Very, very small town in northern Kentucky, sir.

9 DC: When you say small town, how big approximately is this
10 town?

11 ACC: I'd say between 1400 and 1600 people, sir.

12 DC: How long has your family been in that location?

13 ACC: Longer than Kentucky has been a state, sir.

14 DC: So you got a lot of deep roots in Kentucky, then?

15 ACC: Very deep roots, sir.

16 DC: How big of a family do you have, Specialist Cammack?

17 ACC: Immediate family or extended family, sir?

18 DC: How about we do immediate first and then we do extended?

19 ACC: Just my mother and my father and one brother, sir.

20 DC: How about extended?

21 ACC: On my dad's side, I am one of 26 grandchildren; and on my
22 mother's side, I am one of 10 grandchildren.

23 DC: And are you pretty close with your extended family too?

1 ACC: Very close, sir.

2 DC: And, of course, you've got your fiancé right?

3 ACC: Yes, sir.

4 DC: And you're about to have a new family by integrating hers
5 with yours, right?

6 ACC: Yes, sir.

7 DC: What are yours and plan for the future?

8 ACC: Well, we currently own a home together and we are currently
9 doing some remodeling, but once we get that done and the wedding out
10 of the way, we have every intention of going on and starting a
11 family, having some children.

12 DC: You're going to stay back home in Kentucky?

13 ACC: Yes, sir.

14 DC: Growing up, Specialist Cammack, what kind of things were
15 you involved in your community back home?

16 ACC: I was very--in my youth I was very active in my youth group
17 as a church [member]. I did a water rescue program for a long time
18 where we patrolled the waters of Kentucky, mostly the Ohio River, and
19 patrol safety; and at times we'd get called out to dive down for
20 either evidence recovery, vehicle recovery, or in worse-case
21 scenarios of when someone had drowned we did body recovery. I've
22 also worked on [inaudible] Ambulance; I think I did that
23 approximately 2 1/2 years. And now currently I do work with the

1 National Wild Turkey Federation, which does volunteer work in my
2 county and the county I live very close to. [I] mostly do work with
3 children, teaching them safety and outdoors animal recognition; and
4 we take them fishing [and] hunting; and we take the under-privileged
5 children out, children who don't have fathers, the State of Kentucky
6 sets one weekend aside jut for us to take them out and give them
7 experience in the outdoors.

8 DC: And the rest of your family is pretty involved with this
9 Wild Turkey Federation too, right?

10 ACC: Yes, sir.

11 DC: It is something that actually your dad helped start, the
12 chapter where you are from, right?

13 ACC: Yes, my dad was one of the people who helped start the
14 chapter in my region, sir.

15 DC: So would you say in the past you've given quite a bit of
16 your time to charity work and helping others?

17 ACC: Yes, a lot of time, sir.

18 DC: We also heard from your uncle that you also would really
19 volunteer to help your friends with their farms back home too?

20 ACC: Yes, sir.

21 DC: Why did you do that?

22

1 ACC: That's the way I was raised, sir. I still currently do it.
2 My best friend, he's got a very large farm but, like my uncle said,
3 tobacco doesn't pay for itself and I am always doing work for him and
4 actually the most I charge him is a meal at the end of the day and I
5 go back home.

6 DC: When does the farm season, the harvest season start?

7 ACC: From March until December.

8 DC: So we are right in that timeframe now, right?

9 ACC: Yes, sir.

10 DC: Now, Specialist Cammack, we heard from your uncle something
11 about your mom and dad wanting to be here but they couldn't be here.

12 Where are they right now?

13 ACC: I believe they are currently on a flight somewhere [sic]
14 between Chicago and here. They was caught in some bad weather and
15 was [sic] not able to leave Chicago on a layover.

16 DC: They actually faxed in a letter to the military judge for
17 their support, correct?

18 ACC: Yes, sir, they did.

19 DC: And you know you could have requested delaying this case or
20 something to that effect to get your parents here, right?

21 ACC: Yes.

22 DC: You didn't want to do that, did you?

23 ACC: I discussed it with both of them last night. We [were]

1 just both eager to just go on and get this over with so that I can
2 just get on with my life. My parents are very upset that they
3 couldn't be here, but----

4 DC: But at the same time, you've spent a long time dealing with
5 this and you want to move forward, roger?

6 ACC: Yes, sir.

7 DC: Okay. I want to talk a little bit about Afghanistan now,
8 Specialist Cammack.

9 ACC: Okay.

10 DC: What were your duties? You already kind of told the
11 military judge a little bit about it, but what were your duties in
12 Afghanistan when you got there?

13 ACC: My original duty that I did I was a gate guard at a--
14 controlling access and searching vehicles coming in and out of post.
15 I felt I was well served there because it was very common, almost
16 daily, for someone to come up as a landmine victim, usually local
17 nationals, but I got to exercise my medical skills. After a certain
18 amount of time there, we rotated with a different platoon and I went
19 inside the facility. I begged to stay outside because I felt that I
20 was better served out there using my medical skills, trying to help
21 out people and victims of landmines, but it was not granted. I was
22

1 told that I had to stay in the facility and work as a prison guard.
2 I stayed inside the prison facility for the remainder of the
3 deployment.

4 DC: How long were you inside the prison facility for?

5 ACC: I'd say approximately 5 months, sir.

6 DC: How long did you work outside the prison facility for?

7 ACC: Approximately a month and a half, sir.

8 DC: What were the conditions like there? Was it a difficult
9 environment?

10 ACC: Yes, it was a pretty difficult environment. When we got
11 there at first, the tents that we lived in was [sic] not fit for
12 living; they had massive holes in there; our bunks were so close we
13 usually had to put our bunks touching each other, our baggage had to
14 be stacked underneath our bunks. When we woke up, we had to climb
15 down through the foot of our bunk, pick our cot up, get dressed in
16 that little 2-foot space that we had, and then pull our cot back
17 down. Eventually, roughly around the same time of this incident
18 that's in question right now, we got new tents that were pretty nice.
19 They had wood frame, wood floors, and actually were worth living in.

20 DC: So living conditions were difficult at first and then were
21 better later?

22 ACC: Yes.

23 DC: Working conditions were a little difficult also?

1 ACC: Yes, sir.

2 DC: You guys were guarding some pretty dangerous people,
3 correct?

4 ACC: Yes, sir.

5 DC: Actual terrorists, right?

6 ACC: Yes, sir.

7 DC: And people like you've been briefed that--I'll leave it at
8 that.

9 So overall, this was a pretty stressful environment, wasn't
10 it?

11 ACC: Very stressful, sir.

12 DC: Now, Specialist Cammack, you understand why we are here,
13 don't you?

14 ACC: Fully understand, sir.

15 DC: What are your thoughts? What are your thoughts about this
16 situation?

17 ACC: I messed up. I don't know, I got angry because I got spit
18 on and then I got scared and I refused to admit my problem that I had
19 done.

20 DC: Do you feel sorry for what you did?

21 ACC: Very sorry, sir.

22 DC: And you've been pretty much carrying this baggage with you
23 for a couple of years now, haven't you?

1 ACC: Yes, sir.

2 DC: At first, did anybody make, you know, make any negative
3 comments to you from your unit or anything like that?

4 ACC: There was a lot of them, sir. I started getting labeled as
5 a murderer, started carrying around names as Doctor Death, the Grim
6 Reaper, Touch of Death.

7 DC: That was the other guys messing with you, right?

8 ACC: Yes, sir.

9 DC: When you, in fact, you had nothing to do with the actual
10 death, did you?

11 ACC: Until recently, I just found no, I did not, sir; but for a
12 long time they led me to believe that I did cause his death, sir.

13 DC: That was the other guys in your unit?

14 ACC: Both the guys in the unit and CID, sir.

15 DC: While they were doing their investigation?

16 ACC: Yes, while they were doing their investigation.

17 DC: So for a number of years, you didn't have much [inaudible],
18 correct?

19 ACC: No, sir.

20 DC: You have been carrying a lot of baggage inside?

21 ACC: Yes, sir.

22 DC: How has this whole incident affected your life, Specialist
23 Cammack?

1 ACC: It's been pretty gruff, sir. My relationship with a lot of
2 the people in my Reserve unit is--really went down the hill. It is
3 something I am trying hard to make bridges back and back towards that
4 friendship. It is just something that I pack around every day,
5 especially thinking that a part of me had something to do with the
6 death of somebody else [sobbing] and I couldn't live with that, sir.

7 DC: So it has been difficult too? It's kind of a good feeling
8 when you found out that you weren't responsible, right?

9 ACC: [Sobbing.] Yes, sir. It was a very big relief off of my
10 shoulders, sir.

11 DC: Now, this is not as much your case, but other cases
12 associated with what happened there, gathered a lot of media
13 attention, haven't they?

14 ACC: Yes, sir.

15 DC: You've been kind of holding along with that back home,
16 correct?

17 ACC: Yes, sir.

18 DC: So pretty much everybody in your small town heard you were
19 in trouble, right?

20 ACC: Yes, sir.

21 DC: And that's--has that affected your family too?

22 ACC: Yes, sir.

23

1 DC: It has affected my family a little bit. They are
2 constantly being called by the media asking for comments. They even
3 went as far as they found out my employer; they've been calling my
4 employer. It's gotten to the point where it is threatening my career
5 and my job back home.

6 DC: So it has been pretty difficult across the board, has it?

7 ACC: Yes, sir.

8 DC: Now, you've--you pled guilty today.

9 ACC: Yes, I did, sir.

10 DC: And you took responsibility for your actions.

11 ACC: Yes, I did, sir.

12 DC: And one of the things in your pretrial agreement was to
13 cooperate with the government.

14 ACC: Yes, sir.

15 DC: You have actually been cooperating with the government,
16 though, long before that pretrial agreement, haven't you?

17 ACC: Yes, I did, sir.

18 DC: You've spoken with the government previously, right?

19 ACC: Yes, I did, sir.

20 DC: And prior to even being charged, you cooperated and
21 testified at the Article 32 for another individual.

22 ACC: Yes, I did, sir.

23

1 DC: Why are you cooperative to the government, Specialist
2 Cammack?

3 ACC: I've come to realize that what I did was wrong and the only
4 way to make it right is to do what I should have done in the first
5 place; and once I came to realize that, that's the action I've taken
6 and it's the action I've stepped to.

7 DC: Is there anything else you'd like to tell the military
8 judge, Specialist Cammack?

9 ACC: I know that my actions was [sic] very wrong, sir. I've
10 carried a terrible amount of guilt for this for a long time
11 [sobbing], and I have no excuse for what I did, sir. I feel as if I
12 still have a lot to offer to the Army; and I know that I have a lot
13 of making up for the mistakes that I've created, and I honestly feel
14 that I still have a lot to offer to the Army, sir.

15 DC: Thank you, Specialist Cammack.

16 [The accused resumed his seat at the defense table.]

17 DC: Your Honor, we have nothing further. The defense rests.

18 MJ: Trial Counsel, any rebuttal evidence to present?

19 TC: No, Your Honor.

20 MJ: You may present sentencing argument.

21 TC: Your Honor, do you prefer us to use the podium or----

22 MJ: Whatever you prefer.

23

1 TC: Your Honor, this is a straightforward case in every
2 perspective. It began with a violent breach of personal discipline
3 and devolved into deceptive efforts to mislead investigators to cover
4 up a crime. The government submits the facts of this case warrant
5 confinement of Specialist Cammack for 6 months, forfeiture of two-
6 thirds' pay and allowances during that period of time, reduction to
7 E1, and a bad-conduct discharge.

8 On the evening of 3 December 2002, Specialist Cammack, was
9 posted as an isolation cell guard at the Bagram Collection Point,
10 Afghanistan. His duties there were straightforward as well, to
11 ensure the safety, the well-being, [and] the security of all the
12 detainees in his charge; among those, BT 412, Mr. Habibullah.
13 Mr. Habibullah, in an isolation cell [inaudible] was properly
14 secured. This man's hands were cuffed together; secured to his
15 waist, pinned into his waist; his legs were shackled together; and to
16 prevent movement forward to back, left to right, a belly chain was
17 attached to the ceiling of the cell front and back. He posed no
18 physical threat [inaudible] whatsoever; he posed no flight risk
19 whatsoever. And that's the way Specialist found him--Specialist
20 Cammack found him when he entered the isolation cell that evening in
21 an attempt to feed him. Specialist Cammack has testified that in the
22 process of doing that, a stain came to be on his uniform in some
23 fashion; his response to that was violence. He lashed out at the

1 man; he lashed out at him simply to cause pain. This is a man who is
2 chained in every conceivable fashion, presented no threat, and was
3 defenseless. His sole intention in doing that, as he stipulated, was
4 to cause the man pain. And to do that, he used a very effective
5 technique, common Peroneal strike, applied pressure to that nerve.
6 That technique, the appropriateness of that technique in other
7 circumstances is not in question; [it's] a perfectly legitimate
8 technique for gaining compliance in certain situations, in violent
9 situations, in a fight. This wasn't a fight, and Specialist Cammack
10 himself has said it wasn't an appropriate technique in that
11 circumstance and he used too much force, enough force such that the
12 man swung in his chains back into the arms of another MP.

13 His conduct in administering violent, physical punishment
14 to a detainee in his charge was absolutely unauthorized, Your Honor.
15 It is contrary to his duties as an isolation cell guard, it was
16 contrary to good order and discipline in his unit, it was contrary to
17 the unit mission in Afghanistan. More than that, it was contrary to
18 everything that we should expect from a military policeman. The use
19 of violence as a mean to disrespecting one's rights will not be
20 tolerated from any soldier, and MPs are to be held to a higher
21 standard; they're the face of the law, Your Honor.

22 If Specialist Cammack's misconduct ended there with a
23 simple act of assaulting a detainee in his charge would have been bad

1 enough, but within hours he had compounded the crime. The next
2 morning, approximately at 0700 local time, Specialist Cammack gave a
3 statement to a CID investigator investigating a death in the theater.
4 He was asked specifically, "Did you ever hit this guy?" "I don't
5 know anything about it." It was in a matter of hours after it
6 happened. Twelve days later, 16 December 2002, a second interview,
7 under oath again, same question, "Did you ever strike Habibullah?"
8 "Absolutely not." Specialist Cammack's specific intention in giving
9 these false statements, Your Honor, was to mislead the investigators,
10 to deceive, and send them down the wrong trail; and that worked.
11 Specialist Cammack's lies, together with the lies of others, helped
12 prolong two homicide investigators--investigations in a theater of
13 war. His actions had an adverse impact on his unit in the theater
14 and it had an adverse impact on the readiness when they returned to
15 the United States.

16 Your Honor, Specialist Cammack's conduct in assaulting
17 [inaudible], the initial crime, can perhaps be explained by rage; but
18 his failure to control that rage, his failure to control that impulse
19 is a severe breach of discipline and under the circumstances it can't
20 be tolerated. The guards can't do that, Your Honor, MPs can't do
21 that. He intentionally inflicted pain on a human being who was
22 defenseless and in his care. Rage might be an explanation for that,
23 Your Honor, but it cannot be an excuse.

1 With regard to the lies to CID investigations--
2 investigators, there simply can't be an excuse for that, Your Honor.
3 These are lies under oath to homicide investigators told by a
4 policeman in the course of his duties. He was and is a still trained
5 MP, Your Honor. This is a case of cop lying to cops, as simple as
6 that. It is hard to imagine a more egregious act, an act more
7 abhorrent to the Uniform Code of Military Justice than that.

8 In closing, Your Honor, the parties have stipulated to
9 Specialist Cammack's intention in striking this detainee, which
10 caused him pain; we've stipulated that the strike was absolutely
11 unauthorized; and that Specialist Cammack's subsequent lies to CID
12 investigators were intended to mislead and throw them off the tracks.
13 For that, Your Honor, the facts of this case warrant imprisonment of
14 Specialist Cammack for 6 months, forfeiture of two-thirds' pay and
15 allowances during that period of time, reduction to E1, and a bad-
16 conduct separation from the Army.

17 Thank you, Your Honor.

18 MJ: Thank you, Captain Parker.

19 Captain Leone, you may present sentencing argument,

20 DC: Sir, this is a difficult case, and I'll be honest, I almost
21 don't know what to say here because this isn't your ordinary type of
22 situation where you get a soldier who commits misconduct, does it
23 because he wants to catch a little extra money by selling drugs, or

1 he wants to just say, "The heck with the Army," and buck the system,
2 or was just a violent individual who does not care about human beings
3 or their safety or what happens to him or anybody else. We've got a
4 situation here where it's a good, young man who was placed in an
5 incredibly stressful environment and he lost his cool; and then he
6 got scared because of what happened after the fact and didn't tell
7 the truth. That's the bottom line. For once, I'll probably agree
8 with the government, this is a pretty clear-cut case. I mean, it's
9 simple, the facts is [sic] what they are, there is no spin that I can
10 put on these facts that changed what occurred in Afghanistan. But
11 you know what?, Specialist Cammack doesn't want me to put a spin on
12 these facts; he made a mistake and he accepts responsibility for it,
13 sir. So I guess ultimately you got to balance the misconduct versus
14 what kind of individual Specialist Cammack is. Okay, he made a
15 mistake, he got upset, he hit a detainee, and then he didn't tell the
16 truth. But who is Specialist Cammack?

17 Well, this is a young man from a small town in Kentucky
18 who's got a loving a caring family, who volunteers his free time to
19 help other individuals on their farms, to help other individuals who
20 come from broken homes, children in that. He's a young man who works
21 for the search and rescue team back home. He's a young man who is
22 compassionate, considerate, and gives to others. And I guess the
23 question is, what happened to Brian Cammack in Afghanistan? Well,

1 sir, we put these young men in harm's way, and women, for that
2 matter. We put them in incredibly stressful environments, and
3 sometimes things happen that are not indicative of that person and
4 what kind of character they have; and what happened to Specialist
5 Cammack was he got placed in a tough environment and made a mistake,
6 and the bottom line is, sir, he made a mistake.

7 This is a good man, sir, this is an individual who still
8 has a lot to give to the United States Army Reserve and still has a
9 lot to give to his community back home. And I am just going to cut
10 right to the chase, what is an appropriate punishment for Brian
11 Cammack?

12 As you know, sir, society recognizes five principal reasons
13 for the sentence of those who violate the law: rehab of the
14 wrongdoer, punishment of the wrongdoer, protection of society from
15 the wrongdoer, preservation of good order and discipline in the
16 military, and deterrence from the wrongdoer from committing further
17 acts or other people committing similar acts.

18 Well, Your Honor, the deterrence effect has already been
19 achieved. Specialist Cammack has been court-martialed, he has pled
20 guilty, and he has received federal criminal convictions for assault
21 and battery and false statements. That's there. From here on out,
22 the United States Army can tell other military police officers, can
23 tell other soldiers, "If you are make a mistake, you're are going to

1 face the consequences, we are going to court-martial you."

2 Preservation of good order and discipline? Same thing,
3 Your Honor, it has been achieved. Specialist Cammack has been
4 punished by being court-martialed.

5 Protection of society from the wrongdoer? Sir, we don't
6 need to protect society from Specialist Brian Cammack. This is a
7 good man who made a mistake.

8 So really we need to look at whether this young man has
9 rehab potential and what is the appropriate punishment. As I stated
10 before, a good, young man, sir. [He] comes from a good family, he's
11 got loving and caring parents, he's got a loving and caring uncle,
12 he's got a wonderful fiancé who is going to be there for him. He is
13 just a genuine good guy. I mean, he was raised right, he made some
14 mistakes. There's nothing more we can do to rehab Brian Cammack and
15 confinement is not going to do anything that did before that.

16 In addition, sir, I'll point out that Specialist Cammack
17 took those first steps toward rehabilitation when he admitted his
18 wrongdoing, when he started to cooperate with the government. He's
19 not only given statements to help the government, but he's also
20 testified in an Article 32 hearing in which he didn't have counsel
21 nor was he--you know, on his own. No one even promised anything.
22 His promise to cooperate with the government was part of his deal
23 because he realizes he made a mistake and he wants to help now, he

1 wants to make amends for what he did; and that's important, sir,
2 because that shows rehab potential.

3 Now, the government's asked, I believe, that we kick him
4 out of the service and put him in jail for 6 months and some other
5 forfeiture and rank reductions. I guess that's the punishment asked,
6 then. How should we punish him? [Are] 6 months in jail, sir, going
7 to do anything to, I guess rehab or do anything to Brian Cammack? Is
8 it going to punish him further? No, sir, 6 months in jail do nothing
9 for Brian Cammack. All that does is prohibits him from getting on
10 with his life. This young man has been punished every single day for
11 the last 2 1/2 years because he had to live with this. Furthermore,
12 sir, he's been punished because he received a federal criminal
13 conviction for this, two of them, I might add. Jail time will do
14 nothing to help Specialist Cammack. All jail time will do is stop
15 him from moving on with his life. Sir, it is time to let this young
16 man heal, it's time to let him say--it's time to say to Specialist
17 Cammack, I should say, that, "Okay, you made a mistake, let's put
18 this behind you, move on with your life."

19 As far as the bad-conduct discharge goes, is this really
20 bad conduct, sir? I mean, he made a mistake, but does it really
21 warrant a punitive discharge? I mean, we are on a day and age when
22 we are fighting wars overseas; we are on a day and age when we can't
23 get soldiers to enlist in the service, active duty, Reserve, National

1 Guard, the recruiting is down. There is a chance to salvage a
2 soldier, there's a chance to maybe give him the opportunity to show
3 everybody what happened in 2002 in Bagram, Afghanistan, was a mistake
4 and that he's learned his lessons.

5 So what do we think is an appropriate punishment for
6 Specialist Cammack? Your Honor, if there was ever a case for Article
7 15 punishment, this is the case; this is the case, sir. Confinement
8 will do nothing to help this young man. The Army needs soldiers, and
9 he can be rehabilitated. So, sir, if you are going to punish him
10 further, reduce him in rank, take some money, give him the chance to
11 move on with his life and give him the chance to soldier back.

12 Thank you.

13 MJ: Thank you, Captain Leone.

14 Given the hour, Counsel, I'd ask that [the parties] be back
15 in the area not later than 1200 hours while I deliberate.

16 The court is closed.

17 [The court-martial closed at 1051, 20 May 2005.]

18 [The court-martial opened at 1202, 20 May 2005.]

19 MJ: The court is called to order. All parties are present as
20 before.

21 Accused and defense counsel, please rise.

22 [The accused and his counsel did as directed.]

23

1 MJ: Specialist Brian E. Cammack, this court-martial sentences you:

2 To be reduced to the grade of E1;
3 To forfeit \$822 pay per month for 4 months;
4 To be confined for 4 months; and
5 To be discharged from the service with a
6 bad-conduct discharge.

7 Please be seated.

8 [The accused and her counsel did as directed.]

9 MJ: I have before me what has been marked Appellate Exhibit V, the
10 quantum portion of your pretrial agreement. It states the convening
11 authority will disapprove any confinement in excess of 90 days; and
12 except as limited above, any other lawful sentence authorized by a
13 special court-martial empowered to adjudge a bad-conduct discharge can
14 be approved.

15 Specialist Cammack, have I properly stated the sentence
16 agreement that you have with the convening authority?

17 ACC: Yes, sir.

18 MJ: Counsel, do you agree?

19 TC: Yes, Your Honor.

20 DC: Yes, sir.

21 MJ: My understanding of the effect of the pretrial agreement on
22 the sentence is that the convening authority may approve reduction to
23 private E1, forfeiture of \$822 pay per month for 4 months, confinement
24 for 90 days, and a bad-conduct discharge.

25 Do counsel agree with my interpretation?

1 TC: Yes, Your Honor.

2 DC: Yes, sir.

3 MJ: Specialist Cammack, is that also your understanding?

4 ACC: Yes, sir.

5 MJ: I have before me what's been marked Appellate Exhibits VII,
6 post-trial and appellate rights dated 20 May 2005.

7 Do you have a copy there on the defense table?

8 ACC: Yes, sir.

9 MJ: Specialist Cammack, is that your signature that appears on
10 page 4 of that document?

11 ACC: Yes, sir.

12 MJ: Captain Leone, is that also your signature on page 4?

13 DC: Yes, sir.

14 MJ: Specialist Cammack, did Captain Leone explain these post-trial
15 and appellate rights to you?

16 ACC: Yes, sir.

17 MJ: Specialist Cammack, do you have any questions about your post-
18 trial and appellate rights?

19 ACC: No, sir.

20 MJ: Captain Leone, will you be responsible for post-trial actions
21 in the case?

22 DC: Yes, sir.

23 MJ: Are there any other matters to take up before the court

1 adjourns?

2 TC: No, Your Honor.

3 DC: No, sir.

4 MJ: The court is adjourned.

5 [The court-martial adjourned at 1204, 20 May 2005.]


6 [END OF PAGE]

AUTHENTICATION OF RECORD OF TRIAL

IN THE CASE OF

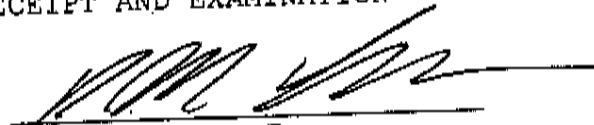
CAMMACK, Brian E.; Specialist;
377th Military Police Company, Cincinnati, Ohio

I received the completed record of trial for review and
authentication on 11 July 2005.


MARK P. SPOSATO
LTC, JA
Military Judge

DATE: 12 July, 2005.

ACKNOWLEDGEMENT OF RECEIPT AND EXAMINATION


ROBERT M. LEONE
CPT, JA
Defense Counsel

DATE: 5 July, 2005.
completed
received 23 July 2005

The record of trial was served on defense counsel on _____ and
After verifying receipt with defense counsel on _____ and
conferring with the military judge on review by defense counsel on _____,
the record was forwarded for authentication without
completion of defense counsel's review.

ACTION

DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY AIR DEFENSE ARTILLERY CENTER AND FORT BLISS
FORT BLISS, TEXAS 79916-0058

In the case of Specialist Brian E. Cammack,
Headquarters Battery, United States Army Air Defense Artillery Center and Fort Bliss, Fort Bliss,
Texas 79916, only so much of the sentence as provides for reduction to E1, forfeiture of \$822.00
pay per month for 4 months, confinement for 90 days, and a bad conduct discharge is approved
and, except for the bad conduct discharge, will be executed.

U.S. Army, Headquarters and


ROBERT P. LENNOX
Brigadier General, USA
Commanding

SEP 09 2005