

RECORD OF PROCEEDINGS OF
COURT-MARTIAL

013524

ERRATA SHEET

Page

1 of 1

[illegible]

013525

RECORD OF TRIAL

of

b(6)-s, b(7)(C)-s

CANJAR, TIMOTHY F.

(Name: Last, First, Middle Initial)

(Social Security Number)

SPECIALIST (E4)

(Rank)

HHC, 320th MP Bn
800th MP Bde

(Unit/command Name)

U. S. ARMY

(Branch of Service)

Camp Bucca,
Iraq

(Station or Ship)

By

GENERAL

COURT-MARTIAL

Convened by

COMMANDER

(Title of Convening Authority)

Coalition Land Forces Component Command

Third U.S. Army

U.S. Army Forces Central Command

(Unit/Command of Convening Authority)

Tried at

Camp Doha, Kuwait APO AE 09304

(Place or Places of Trial)

on

15 November 2003

(Date or Dates of Trial)

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TESTIMONY

Name of Witness (Last, First, Middle Initial)	Direct and Redirect	Cross and Recross	Court.
Prosecution			
NA			
Defense			
NA			
Court			
NA			

EXHIBITS ADMITTED IN EVIDENCE

Number or Letter	Description	Page Where-	
		Offered	Admitted
AE I	Advice on Disposition of Court-Martial Charges	--	--

COPIES OF RECORD₁

_____ copy of record furnished the accused or defense counsel as per attached certificate or receipt.

_____ copy(ies) of record forwarded herewith.

RECEIPT FOR COPY OF RECORD₂

I hereby acknowledge receipt of a copy of the record of trial in the case of United States v. _____

Delivered to me at _____ this _____ day of _____, 20____

(Signature of accused)

I hereby acknowledge receipt of a copy of the record of trial in the case of United States v. _____

Delivered to me at _____ this _____ day of _____, 20____

(Signature of accused)

1 For instructions as to preparation of copies of record, see back cover or appendices 13 and 14, MCM, 1995

2 If copy of record prepared for accused contains matters requiring security protection, see RCM 1104(b) (1) (D), MCM, 1995.

CERTIFICATE IN LIEU OF RECEIPT

Camp Arifjan, Kuwait APO AE 09306

(Place)

23 March 2005

(Date)

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

was transmitted (delivered) to the accused, SPC Timothy F. Canjar

(Rank and Name of accused)

at c/o [REDACTED], by certified mail number: 7002 0860 0000 4385 3800

(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 [REDACTED]

b(6)-3 b(7)(C)-3 b(6)-2; b(7)(C)-2 [REDACTED] CPT, JA, Assistant Chief Criminal Law
(Signature of trial counsel)

U.S. Postal Service
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23 MAR 2005
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(Date)

Case of United States v. _____

(Rank and Name)

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

al on the accused because he/she was transferred to

(the accused requested such at trial) (the accused so

nt without leave) (_____).

(Other reason)

(Signature of trial counsel)

OR

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

(Date)

(Signature of trial counsel)

013528

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

(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)

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

_____ (the accused requested such at trial) (the accused so

(Place)

requested in writing, which is attached)(the accused is absent without leave)(_____).

(Other Reason)

(Signature of trial counsel)

OR

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

).

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

RCM 505(D)(2)(B)) (_____)

).

(Date)

(Signature of trial counsel)

PROCEEDINGS OF A GENERAL COURT-MARTIAL

The military judge called the Article 39(a) session to order at Camp Doha, Kuwait, at 1057, 15 November 2003, pursuant to the following orders:

Court-Martial Convening Order Number 6, Headquarters, Coalition Forces Land Component Command, Camp Doha, Kuwait, dated 3 July 2003.

[END OF PAGE]



REPLY TO
ATTENTION OF:

CORRECTED COPY
DEPARTMENT OF THE ARMY
COALITION FORCES LAND COMPONENT COMMAND
HEADQUARTERS THIRD UNITED STATES ARMY
UNITED STATES ARMY FORCES CENTRAL COMMAND
APO AE 09304

COURT-MARTIAL CONVENING ORDER
NUMBER

6

3 July 2003

A general court-martial is hereby convened with the following members and shall meet at
ARCENT/Kuwait, unless otherwise directed:

	MEMBERS
COL [REDACTED]	SC, HHC, Third U.S. Army, CFLCC-C6
COL [REDACTED]	AG, HHC, 143d Transportation Group, DCS, G4
LTC [REDACTED]	IO, HHC, Third U.S. Army, CFLCC-C3
LTC [REDACTED]	IN, HHC, Third U.S. Army, CFLCC, C3
MAJ [REDACTED]	ADA, HHC, Third U.S. Army, CFLCC, C3
*MAJ [REDACTED]	AV, HHC, Third U.S. Army, CFLCC, C4
*MAJ [REDACTED]	IN, HHC, ARCENT-KU
*CPT [REDACTED]	AG, HHC, 335 th Theater Signal Command
*CPT [REDACTED]	OM, HHC, Third U.S. Army, CFLCC, C4
*CW3 [REDACTED]	SC, HHC, Third U.S. Army, CFLCC-C6

b(6)-2

b(7)(c)-2

*These members are excused when the accused requests to be tried by a panel consisting of
enlisted and officer members.

The following members are detailed to the court-martial when the accused requests enlisted
members under Article 25(C), UCMJ:

	MEMBERS
SGM [REDACTED]	USA, HHC, Third U.S. Army, CFLCC, C7
SGM [REDACTED]	USA, HHC, 377 th Theater Support Command
SGM [REDACTED]	USA, HHC, Third U.S. Army, CFLCC, C6
SGM [REDACTED]	USA, HHC, 377 th Theater Support Command
MSG [REDACTED]	USA, HHC, 377 th Theater Support Command

Same

BY COMMAND OF LTG McKIERNAN:

[REDACTED]
SSG, USA
Criminal Law NCOIC

same

DISTRIBUTION:
Each Member Selected

013531

1 MJ: This Article 39(a) session is called to order.

2 TC: This court-martial is convened by Court-Martial Convening
3 Order Number 6, Headquarters, Third United States Army, Coalition
4 Forces Land Component Command, dated 3 July 2003, copies of which
5 have been furnished to the military judge, counsel and the accused
6 and which will be inserted at this point in the record.

7 The charges have been properly referred to this court for trial
8 and were served on the accused on 9 November 2003.

9 The prosecution is ready to proceed with the arraignment in the
10 case of The United States versus Specialist Timothy F. Canjar.

11 The accused and the following persons detailed to this court are
12 present:

13 LIEUTENANT COLONEL [REDACTED], MILITARY JUDGE;
14 CAPTAIN [REDACTED] TRIAL COUNSEL; and
15 CAPTAIN [REDACTED] ASSISTANT TRIAL COUNSEL,
16 MAJOR [REDACTED] DEFENSE COUNSEL.

b(6)-2,
b(7)(c)-2

17 The members are absent.

18 Master Sergeant [REDACTED] has been detailed reporter for
19 this court and has been previously sworn.

20 TC: All members of the prosecution have been detailed to this
21 court by Colonel [REDACTED] All members of the prosecution are
22 qualified and certified under Article 27(b) and sworn under Article
23 42(a) Uniform Code of Military Justice. No member of the prosecution

1 has acted in any manner which might tend to disqualify us in this
2 court-martial.

b(6)-2; b(7)(C)-2

3 MJ: Thank you. All right, Specialist Canjar you are currently
4 represented by Major [REDACTED] She is your detailed military defense
5 counsel and she is provided to you at no expense to you. You also
6 have the right to request a different military lawyer to represent
7 you and if that person were reasonably available he or she would be
8 appointed to represent you also free of charge. If your request for
9 another military lawyer were granted, however, you would not have the
10 right to keep the services of Major [REDACTED] ^{same} as your detailed defense
11 counsel because you're normally entitled to only one military
12 counsel. You could ask her superiors to let you keep your detailed
13 counsel, but your request would not have to be granted.

14 In addition, you have the right to be represented by a
15 civilian lawyer. A civilian lawyer would have to be provided by you
16 at no expense to the government. If you are represented by a
17 civilian lawyer, you can also keep your military lawyer on the case
18 to assist your civilian lawyer, or you could excuse your military
19 lawyer and be represented only by your civilian lawyer.

20 Do you understand that?

21 ACC: Yes, Your Honor.

22 MJ: Do you have any questions about your rights to counsel?

23 ACC: No, Your Honor.

1 MJ: By whom do you wish to be represented?
2 ACC: Major [REDACTED]
3 MJ: By Major [REDACTED] alone then? *b(6)-2*
4 ACC: Yes, Your Honor. *b(7)(c)-2*
5 MJ: Please enter your detail and qualifications Major [REDACTED] *same*
6 DC: Your Honor, I've been detailed to this case by Lieutenant
7 Colonel [REDACTED] *b(6)-2; b(7)(c)-2* RDC of Region VIII U.S Army Trial Defense
8 Service. Qualified and certified under Article 27(b) UCMJ, sworn
9 under Article 42(a) UCMJ. I have not acted in any manner which might
10 tend to disqualify me from this case.
11 MJ: Thank you. I too have been properly certified, sworn and
12 detailed to this court-martial. Counsel for both sides appear to
13 have the requisite qualifications and all personnel required to be
14 sworn have been sworn. Please announce the general nature of the
15 charges in this case.
16 TC: The general nature of the charges in this case is violation
17 of Article 92 UCMJ, failure to obey a lawful order; violation of
18 Article 93 UCMJ, dereliction of duty, four Specifications; violation
19 of Article 107 UCMJ, false official statement; violation of Article
20 128 UCMJ, assault consummated by a battery, four Specifications.
21 These charges were preferred by First Lieutenant [REDACTED] *same*
22 [REDACTED] and forwarded with recommendations as to disposition by
23 Lieutenant Colonel [REDACTED] and investigated by Lieutenant

same

b(6)-2; b(7)(C)-2

1 Colonel [REDACTED] The general nature of the additional
2 charges, violation of Article 134 UCMJ, obstruction of justice and
3 violation of Article 81 UCMJ, conspiracy to obstruct justice. These
4 charges were preferred by Major [REDACTED] ^{same} and forwarded with
5 recommendations as to disposition by Lieutenant Colonel [REDACTED]
6 [REDACTED] ^{same}

7 Your Honor, are you aware of any matter which might be a
8 ground for challenge against you?

9 MJ: I am not. Does either side desire either to question me or
10 challenge me?

11 TC: No, Your Honor.

12 DC: The defense does not, Your Honor.

13 MJ: Were the additional charges investigated?

14 TC: Yes they were, Your Honor.

15 MJ: Okay, I just didn't hear. So the same Lieutenant Colonel
16 who did the original charges investigated these as well.

17 TC: That's correct, Your Honor.

18 MJ: Thank you.

19 TC: Lieutenant Colonel [REDACTED] ^{same}

20 MJ: And I'm sorry, did you all say you don't have any questions
21 or challenge for me?

22 TC: Yes Your Honor, we do not have questions.

23 MJ: And you don't either?

1 DC: Do not.

2 MJ: Roger. I know of nothing that would be a ground for
3 challenge against me. All right, Specialist Canjar, you have the
4 right to be tried by a court consisting of at least five officer
5 members. They would be commissioned and or warrant officers. Also,
6 if you request it you would be tried by a court consisting of at
7 least one-third enlisted soldiers, but none of those enlisted
8 soldiers would come from your company and none of them would be
9 junior to you.

10 Do you understand what I've said so far?

11 ACC: Yes, Your Honor.

12 MJ: If you are tried by a court with members, the members will
13 vote by secret written ballot and two-thirds of the members must
14 agree before you could be found guilty of any of these offenses. If
15 you were found guilty then two-thirds must also agree in voting on a
16 sentence and if that sentence included confinement for more than 10
17 years, then three-fourths would have to agree. You also have the
18 right to request a trial by military judge alone, and if approved
19 there will be no court members and the judge alone will decide
20 whether you are guilty or not guilty and if found guilty the judge
21 alone will determine your sentence.

22 Do you understand the difference between trial before
23 members and trial before a military judge alone?

1 ACC: Yes, Your Honor.

2 MJ: Do you understand the choices that you have then?

3 ACC: Yes, Your Honor.

4 MJ: Major [REDACTED] are you prepared to enter a choice of forum
5 today? b(6)-2, b(7)(c)-2

6 DC: No, Your Honor, defense requests to defer choice of forum.

7 MJ: Very well. So Specialist Canjar, I expect that you will
8 continue to discuss your options with Major [REDACTED] ^{same} and that at some
9 time prior to trial you'll notify the court and the government of
10 your choice as to how you wish to be tried. All right?

11 ACC: Yes, Your Honor.

12 MJ: The accused will now be arraigned.

13 TC: All parties to the trial have been furnished with a copy of
14 the charges. Does the accused want them read?

15 DC: No thank you.

16 MJ: The reading may be omitted.

17 [END OF PAGE]

b(1)-2; b(7)(c)-2

1 TC: The charges are signed by First Lieutenant [REDACTED]

2 II, a person subject to the Code as accuser; are properly sworn to
3 before a commissioned officer of the Armed Forces authorized to
4 administer oaths; and are properly referred to this court for trial
5 by Lieutenant General David D. McKiernan, the Convening Authority.

6 The additional charges are signed by Major [REDACTED] b(1)-2; b(7)(c)-2

7 [REDACTED], a person subject to the Code as accuser, are properly sworn
8 to before a commissioned officer of the Armed Forces authorized to
9 administer oaths; and are properly referred to this court for trial
10 by Lieutenant General David D. McKiernan, the Convening Authority.

11 MJ: Thank you. Before I ask for the accused's plea, I would
12 note for the record that I asked the trial counsel to mark as an
13 Appellate Exhibit, Appellate Exhibit I which is entitled direction of
14 the convening authority and dated 8 November 2003. It specifically
15 states that Lieutenant General McKiernan, the commander of Third Army
16 considered the recommendations of the Staff Judge Advocate and
17 directed that the charges and specifications against Specialist
18 Timothy F. Canjar be referred for trial by general court-martial
19 convening order number six, this headquarters, dated 3 July 2003.
20 The reason that I asked the trial counsel to have that marked as an
21 Appellate Exhibit is that it is not clear from the referral
22 documents, that is the charge sheet block 14, that the intent of the
23 Convening Authority was that the original charges be tried in

1 conjunction with the additional charges. I would note for the
2 record, however, that the charges and specifications pending against
3 Specialist Canjar on the 8th of November 2003 were indeed the original
4 charges preferred against him on 13 July 2003 and the additional
5 charges preferred against him on the 27th of September 2003; and
6 therefore, I am convinced that the court has jurisdiction to hear all
7 of the charges and specifications against Specialist Canjar and that
8 it was the intent of the Convening Authority to have them all tried
9 at one trial as opposed to a separate trial for the additional
10 charges. Major [REDACTED] I expect that you'll look into that after
11 today and if you believe that there is an issue with regards to
12 defective referral then I will hear a motion for-- motion to dismiss
13 for lack of jurisdiction.

14 DC: Yes ma'am.

15 MJ: All right. Specialist Canjar, Major [REDACTED], please rise.
16 [Accused and counsel did as directed.]

17 MJ: Specialist Timothy F. Canjar, how do you plead? Before
18 accepting your plea, I advise you that any motions to dismiss or
19 grant any other appropriate relief should be made at this time.
20 Major [REDACTED] will speak for you.

21 DC: Your Honor, the defense requests to defer pleas and motions
22 and plea at this time.

23 MJ: Please be seated.

1 [The accused and counsel did as directed.] b(6)-2; b(7)(c)-2
2 MJ: All right. Prior to this arraignment at a session held in
3 chambers, present were Major [REDACTED] Captain [REDACTED] Captain [REDACTED]
4 and myself. In addition, Captain [REDACTED] who is the defense counsel
5 for a co-accused and Captain [REDACTED] who is the defense counsel
6 for another co-accused were also present. The primary purpose of
7 that 802 session was to develop trial dates for both motions and the
8 trial. I asked the defense counsel what motions they anticipated and
9 was informed that there are a couple of issues that will need
10 immediate litigation so that the train stops moving if it needs to.
11 The first of those is that the defense will raise a motion for a new
12 Article 32 investigation and a defective referral based on the fact
13 that the convening authority apparently ignored the recommendation of
14 the 32 investigating officer to dismiss four specifications against
15 Specialist Canjar. He apparently also disregarded the recommendation
16 to dismiss five specifications against Master Sergeant [REDACTED] and
17 four specifications against Staff Sergeant [REDACTED]. b(6)-5; b(7)(c)-5 So that's the
18 first issue. The second issue is that the defense intends to request
19 today that the government detail an investigative assistant to the
20 defense team to be cloaked with attorney-client privilege under
21 United States versus Toledo to provide investigation assistance here
22 in Kuwait and also apparently in CONUS, is that right?

1 DC: Yes, Your Honor. And just for the record, Kuwait and Iraq,
2 Your Honor.

3 MJ: Okay. Obviously that has not been served on the government
4 yet, certainly not ripe for me. Government will decide whether or
5 not they're inclined to detail somebody to assist the defense and if
6 they don't, then it becomes ripe and I expect that we will litigate
7 that issue as to whether they are entitled to an investigative
8 assistant. At any rate, as to those two issues I expect to hear--
9 see the defense pleadings on those issues not later than the 24th of
10 November. Government response not later than the 1st of December and
11 we will litigate those motions on the 3rd and 4th of December, here in
12 Camp Doha, Kuwait. Also the government-- excuse me, the defense
13 intends to serve a discovery request on the government today, that
14 the government anticipates being able to answer each issue in the
15 discovery request affirmatively, so I don't expect any issues, but to
16 the extent that there are any of those issues ripe for litigation on
17 the 3rd and 4th of December we'll hear those that day as well. Past
18 that the defense does anticipate raising a motion for multiplicity
19 under Teeters and Blockburger and or an unreasonable multiplication
20 of charges under Quiroz and an Article 13 motion and possibly an
21 unlawful command influence motion; though the defense has not done
22 the research on that to determine whether or not a basis lies for
23 that issue or not.

1 As to any other motions, those that I've mentioned and any others
2 that you generate between now and trial, I expect to see the
3 pleadings not later than the 10th of December and to see the
4 government response not later than the 17th of December.

5 Government informed me that they desire to try the cases,
6 the co-accused cases in this order: United States versus [REDACTED]
7 first, United States versus [REDACTED] second, United States versus
8 Canjar third. And that they have seventeen witnesses flying from the
9 United States and that they have Iraqi witnesses that are not
10 permitted into Kuwait, so they anticipate the need for a bifurcated
11 trial, that is to hold part of the trial in Iraq to hear the
12 testimony of the Iraqi witnesses and part of the trial here in Camp
13 Doha to hear the remainder of the witnesses. Defense did indicate
14 that they anticipate requesting one or more witnesses from the United
15 States and to the extent that that is an issue then we may need to
16 litigate that prior to trial. I have thus set the 12th of January
17 aside for motions if needed. Though in United States versus Canjar
18 in particular, it seems to me that even if there's an issue with
19 overseas witnesses, we can probably litigate that on the 20th of
20 January as opposed to the 12th of January. You all consider that.
21 The 20th of January, I will hear the motions on multiplicity and
22 Article 13 and an unlawful command influence to the extent that one
23 lies and any other motions that are raised. We won't try the case of

1 United States versus Canjar until 30 January beginning at 0900. It
2 will continue through the weekend and I've set aside through the 4th
3 of February, which is the following Wednesday. b(6)-5; b(7)(c)-5

4 TC: Your Honor, I know we have Master Sergeant [REDACTED] 21
5 through 24; 25 through 28 is Staff Sergeant [REDACTED] and you want to
6 skip a day?

7 MJ: We can if you want.

8 TC: Well I'm just-- you said the 30th through the 2nd, so that
9 would be the 29th we'd have off.

10 MJ: Actually I had [REDACTED] scheduled for-- through the 29th.

11 DC: So do I. b(6)-5; b(7)(c)-5

12 TC: So five days for [REDACTED]

13 MJ: Right, because we're not starting until 1300 on Sunday.

14 But that's a good point. For this record United States versus [REDACTED]
15 will be tried 20 through 24 January---- b(6)-5; b(7)(c)-5

16 DC: Twenty-one ma'am? I think motions is on 20th?

17 MJ: Right, but motions in [REDACTED] as well. And then United
18 States versus [REDACTED] will be tried on the 20th of January and then
19 again the 25th through the 29th and United States versus Canjar will be
20 tried on the 20th of January and then the 30th through the 4th. To the
21 extent that those dates slide, fine, but count on starting on the
22 30th. All right?

23 TC: Okay, thank you ma'am.

1 MJ: All right, that's all my notes showed in terms of the
2 Article-- excuse me, the 802 conference that we held. Do counsel
3 have anything to add?

4 DC: Not from the government, Your Honor.

5 TC: Not from the defense, Your Honor.

6 MJ: All right. And I think actually counsel did indicate that
7 they anticipate requesting an enlisted panel, so government, you
8 should be prepared to the extent that these are co-accused cases to
9 have three different panels available for those times, okay?

10 TC: Yes, Your Honor.

11 MJ: I mean, if it becomes judge alone then that's easy, but;
12 all right. Specialist Canjar, what we've done here this morning is
13 an arraignment. It's the legal term for the first pretrial hearing
14 in any court-martial. As the accused in a court-martial you have the
15 right to be present at any session of your court; whether it's a
16 pretrial hearing, the trial itself or even after court in a post-
17 trial hearing. The one exception to that is if you were to go AWOL
18 between now and the dates that we've set for trial, then the
19 government could go ahead and elect to try the case even if you
20 weren't here.

21 Do you understand that?

22 ACC: Yes, Your Honor.

b(6)-2; b(7)(c)-2

1 MJ: All right. I don't expect that you're going to go AWOL, in
2 fact, quite the contrary. You need to work closely with Major
3 [REDACTED] in the couple of months so that you can be present on the 3rd
4 and 4th of December, possibly the 12th of January, for sure the 20th of
5 January and then again from the 30th of January through the 4th of
6 February.

7 All right?

8 ACC: Yes, Your Honor.

9 MJ: Is there anything else we can take up here today?

10 TC: Not from United States, Your Honor.

11 DC: No, Your Honor.

12 MJ: Court is in recess.

13 [The court-martial recessed at 1116, 15 November 2003.]

14 [END OF PAGE]

ABATEMENT

1

2 The proceedings were terminated on 7 January 2004 when all
3 charges and additional charges and their specifications were
4 dismissed with prejudice by the convening authority.

5 ///NOTHING FOLLOWS////////////////////////////////////
6

AUTHENTICATION OF RECORD OF TRIAL

In the case of

CANJAR, Timothy F.

Specialist

U.S. Army, HHC, 320th Military Police Battalion,

Camp Bucca, Iraq 09375

LTC, JA

(Military Judge)

20 July

, 2004

I have examined the record of trial in the foregoing case.

MAJ, JA

(Defense Counsel)

, 2004

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI) Canjar, Timothy F.		2. SSN [REDACTED]	3. GRADE OR RANK SP4 SPC	4. PAY GRADE SPC/E4
5. UNIT OR ORGANIZATION 320th MP Battalion, 800th MP Brigade Camp Bucca, Iraq APO AE 09375			6. CURRENT SERVICE a. INITIAL DATE 20000926 b. TERM 8 years	
7. PAY PER MONTH a. BASIC 1,579.80 b. SEA/FOREIGN DUTY 250.00 c. TOTAL 1,829.80			8. NATURE OF RESTRAINT OF ACCUSED N/A	
9. DATE(S) IMPOSED				

II. CHARGES AND SPECIFICATIONS

10. CHARGE: VIOLATION OF THE UCMJ, ARTICLE

SPECIFICATION:

CHARGE I: VIOLATION OF ARTICLE 92

Specification: In that Specialist Timothy Frank Canjar, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, who knew of his duties at or near Camp Bucca, Iraq, on or about 12 May 2003, was derelict in the performance of those duties in that he willfully failed to safeguard from assault or abuse captured Iraqi prisoners of war that he was escorting from Talil Air Base, Iraq, to Camp Bucca, Iraq, as it was his duty to do.

CHARGE II: VIOLATION OF ARTICLE 93

Specification 1: In that SPC Timothy Frank Canjar, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, at or near Camp Bucca, Iraq, on or about 12 May 2003, did maltreat [REDACTED] a person subject to his orders, by throwing him to the ground and dragging him across the ground with his pants pulled down around his ankles.

Specification 2: In that SPC Timothy Frank Canjar, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, at or near Camp Bucca, Iraq, on or about 12 May 2003, did aid and abet in the maltreatment of [REDACTED] a person subject to his orders, by holding his legs apart and encouraging other soldiers to kick him, while other U.S. soldiers kicked him in the groin, face and abdomen.

Specification 3: In that Specialist Timothy Frank Canjar, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, at or near Camp Bucca Iraq, on or about 12 May 2003, did maltreat [REDACTED] a person subject to his orders, by twisting his previously injured arm, causing him to scream in pain.

Specification 4: In that Specialist Timothy Frank Canjar, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, at or near Camp Bucca, Iraq, on or about 12 May 2003, did maltreat an Iraqi prisoner of war, a person subject to his orders, by kicking him in the thigh as he walked towards the inprocessing tent, causing him to cry out in pain.

(SEE CONTINUATION SHEET)

III. PREFERRAL

11. NAME OF ACCUSER (Last, First, MI) [REDACTED]	b. GRADE O2	c. ORGANIZATION OF ACCUSER 320th MP Battalion
d. SIGNATURE OF ACCUSER [REDACTED]	e. DATE 13 JUL 03	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 13 day of July, 19 2003, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

Typed Name of Officer

O SJA, CF LCC

Organization of Officer

04 / MAJ

Grade

Article 136, UCMJ

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

Signature

013538

CONTINUATION SHEET 2

CHARGE III: VIOLATION OF ARTICLE 107

b(6)-1; b(7)(c)-1

Specification: In that Specialist Timothy Frank Canjar, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 15 May 2003, with the intent to deceive, make to Special Agent [REDACTED] United States Army Criminal Investigation Division Command, an official statement on a DA Form 2823 Sworn Statement, to wit: that he did not kick an Iraqi prisoner of war, that he did not see any other U.S. soldier kick and Iraqi prisoner of war, that he did not strike an Iraqi prisoner of war, that he did not see any U.S. soldiers kick an Iraqi prisoner of war in the groin, which was totally false, and was known by the said Specialist Timothy Frank Canjar to be so false.

CHARGE IV: VIOLATION OF ARTICLE 128

b(1)-4; b(7)(c)-7

Specification 1: In that Specialist Timothy Frank Canjar, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 12 May 2003, unlawfully twist the previously injured arm of [REDACTED] an Iraqi prisoner of war with his hands, causing him to scream in pain.

Specification 2: In that Specialist Timothy Frank Canjar, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 12 May 2003, unlawfully kick an Iraqi prisoner of war in the thigh as he walked towards the prisoner processing tent, causing him to cry out in pain.

Specification 3: In that Specialist Timothy Frank Canjar, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 12 May 2003, unlawfully throw [REDACTED] an Iraqi prisoner of war, to the ground and drag him across the ground with his pants around his ankles. Same

Specification 4: In that Specialist Timothy Frank Canjar, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 12 May 2003, unlawfully aid and abet Master Sergeant [REDACTED] and Sergeant [REDACTED] in unlawfully kicking [REDACTED] and Iraqi prisoner of war, in the groin, abdomen and head, by holding his leg and encouraging Sergeant [REDACTED] to kick him. Same

b(6)-5; b(7)(c)-5

013539

12.

On 13 July, 19 2003, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

[REDACTED]
Typed Name of Immediate Commander

1LT/O2

HHC, 320th MP Battalion

Organization of Immediate Commander

[REDACTED]
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1500 hours, 13 July, 19 2003 at Camp Arifan, KU
Designation of Command or

[REDACTED]
Summary Court-Martial Jurisdiction (See R.C.M. 403)

XXXXXX¹

[REDACTED]
Typed Name of Officer

Commander

Official Capacity of Officer Signing

LTC, MP

Grade

Commander, 320th MP Battalion

XXXXXX

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

Third U.S. Army/CFLCC

b. PLACE

Camp Doha, Kuwait

c. DATE

8 NOVEMBER 2003

Referred for trial to the General court-martial convened by Court-Martial Convening Order Number 6,
this headquarters,

dated July 3 xx 2003, subject to the following instructions:² None.

By Command of Lieutenant General David D. McKiernan
Command or Order

[REDACTED]
Typed Name of Officer

Chief Paralegal, CFLCC FWD

Official Capacity of Officer Signing

Sergeant Major

Grade

15.

On 9 November, 19 2003, I (caused to be) served a copy hereof on (each of) the above named accused.

Captain

Grade or Rank of Trial Counsel

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.

2 - See R.C.M. 601(e) concerning instructions. If none, so state.

013540

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, Middle Initial) Canjar, Timothy F.		2. SSN [REDACTED]	3. GRADE OR RANK SPC	4. PAY GRADE E-4
5. UNIT OR ORGANIZATION 320th Military Police Battalion, 800th MP Brigade			6. CURRENT SERVICE	
			a. INITIAL DATE 20000926	b. TERM 8 years
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED N/A	
a. BASIC \$1,579.80	b. SEA/FOREIGN DUTY \$250.00	c. TOTAL \$1,829.80	9. DATE(S) IMPOSED	

II. CHARGES AND SPECIFICATIONS

10. CHARGE: VIOLATION OF THE UCMJ, ARTICLE

SPECIFICATION:

ADDITIONAL CHARGE I: VIOLATION OF ARTICLE 134

Specification: In that Specialist Timothy Frank Canjar, US Army, HHD, 320th Military Police Battalion, Camp Arifjan, Kuwait, on active duty did at or near Camp Bucca, Iraq, on or about 16 May 2003, wrongfully endeavor to impede an investigation by meeting with MSG [REDACTED], SSG [REDACTED], SGT [REDACTED] and others for the purpose of deciding who would take responsibility for the actions of SPC Canjar's unit and to misrepresent what occurred on or near Camp Bucca, Iraq on or about 12 May 2003 and by deciding that MSG [REDACTED], SSG [REDACTED] and SPC Canjar would take responsibility for the actions of SPC Canjar's unit on or near Camp Bucca, Iraq on or about 12 May 2003.

ADDITIONAL CHARGE II: VIOLATION OF ARTICLE 81

Specification: In that Specialist Timothy Frank Canjar, US Army, HHD, 320th Military Police Battalion, Camp Arifjan, Kuwait, on active duty did at or near Camp Bucca, Iraq, on or about 16 May 2003, conspire with MSG [REDACTED], SSG [REDACTED], and SGT [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: Obstruction of Justice, by meeting to decide who would take responsibility for the actions of SPC Canjar's unit, and in order to effect the object of the conspiracy the said MSG [REDACTED], SSG [REDACTED], SGT [REDACTED], and SPC Canjar decided who would take responsibility for the actions of SPC Canjar's unit and to misrepresent what occurred on or near Camp Bucca, Iraq on or about 12 May 2003, and that misrepresentations were made.

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, Middle Initial) [REDACTED]	b. GRADE MAJ	c. ORGANIZATION OF ACCUSER CFLCC
d. [REDACTED]	e. DATE (YYYYMMDD) 20030927	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oath in cases of this character, personally appeared the above named accuser this 27 day of September, 2003, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

Typed Name of Officer

CFLCC
Organization of Officer

MAJ
Grade

Article 136, UCMJ
Official Capacity to Administer Oath
(See R.C.M. 307(b) must be commissioned officer)

Signature

013541

12.

On 27 September, 2003, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

[REDACTED]
Typed Name of Immediate Commander

HHD, 320th Military Police Battalion
Organization of Immediate Commander

2LT/O-1
Grade

[REDACTED]
Signature

b(6)-2; b(7)(c)-2

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1845 hours, 29 SEPT, 2003 at _____
Designation of Command or

Commander, 320th Military Police Battalion
Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE
~~XXXXXX~~

[REDACTED]
Typed Name of Officer

LTC/O-5
Grade

[REDACTED]
Signature

Commander
Official Capacity of Officer Signing

b(6)-2; b(7)(c)-2

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b. PLACE

c. DATE (YYYYMMDD)

Third U.S. Army/CFLCC

Camp Doha, Kuwait

8 NOVEMBER 2003

Referred for trial to the General court-martial convened by Court-Martial

Number 6, this headquarters,

dated July 3, 2003, subject to the following instructions: ² None.

By Command of Lieutenant General David D. McKiernan
Command or Order

[REDACTED]
Typed Name of Officer

Chief Paralegal, CFLCC FWD
Official Capacity of Officer Signing

Sergeant Major

Grade

[REDACTED]
Signature

b(6)-2; b(7)(c)-2

15.

On 9 November, 2003, I (~~caused to be~~) served a copy hereof on (~~each of~~) the above named accused.

[REDACTED]
Typed Name of Trial Counsel

Captain
Grade or Rank of Trial Counsel

[REDACTED]
Signature

013542

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

ACTION

THE DEPARTMENT OF THE ARMY
Third United States Army
United States Army Forces Central Command
Coalition Forces Land Component Command
Camp Doha, Kuwait
APO AE 09304

7 JAN 2004

b(6)-5; b(7)(c)-5

In the case of the US v. SPC Timothy F. Canjar, [REDACTED], HHC, 320th MP Battalion, 800th MP Brigade, APO AE, 09304, the charges and additional charges and their specifications are hereby dismissed with prejudice.



DAVID D. McKIERNAN
Lieutenant General, USA
Commanding

013553

APPELLATE EXHIBITS

013554

AFRD-CG

SUBJECT: Advice on Disposition of Court-Martial Charges

8 NOV 2003

DIRECTION OF THE CONVENING AUTHORITY

1. I have considered the recommendations of the Staff Judge Advocate. I hereby direct the following action on the charges and specifications against SPC Timothy F. Canjar, 320th Military Police Battalion, Camp Bucca, Iraq:

☒ Refer them for trial by General Court-Martial, Court-Martial Convening Order Number 6, this Headquarters, dated 3 July 2003.

☐ Refer them for trial by Special Court-Martial empowered to adjudge a Bad Conduct Discharge, Special Court-Martial Convening Order Number 6, this Headquarters, dated 3 July 2003.

☐ Other, _____

2. POC for this directive is the Staff Judge Advocate, COL [REDACTED], at 438- [REDACTED]



DAVID D. McKIERNAN
Lieutenant General, USA
Commanding

b(6)-2; b(7)(c)-2

APPELLATE EXHIBIT

I

013555