

RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ

For use of this form, see AR 27-10; the proponent agency is TJAG.

See Notes on Reverse Before Completing Form

NAME [REDACTED] (b)(6)5	GRADE E6	SSN [REDACTED]	UNIT 303rd MP Co.	PAY (Ears & Se) 2,5
----------------------------	-------------	-------------------	----------------------	------------------------

1. I am considering whether you should be punished under Article 15, UCMJ, for the following misconduct: 1/ In that you, who knew or should have known of your duties, at U.S. Naval Station, Guantanamo Bay, Cuba, on or about 2003, were derelict in the performance of those duties in that you negligently failed to adhere to camp policies regarding restraint of a detainee, as it was your duty to do. This is in violation of Article 92, UCMJ.

2. You are not required to make any statements, but if you do, they may be used against you in this proceeding or at a trial by court-martial. You have several rights under this Article 15 proceeding. First I want you to understand I have not yet made a decision whether or not you will be punished. I will not impose any punishment unless I am convinced beyond a reasonable doubt that you committed the offense(s). You may ordinarily have an open hearing before me. You may request a person to speak on your behalf. You may present witnesses or other evidence to show why you shouldn't be punished at all (matters of defense) or why punishment should be very light (matters of extenuation and mitigation). I will consider everything you present before deciding whether I will impose punishment or the type and amount of punishment I will impose. 2/ If you do not want me to dispose of this report of misconduct under Article 15, you have the right to deny by court-martial instead. 2/ In deciding what you want to do you have the right to consult with legal counsel located at TDS - CPT [REDACTED] @ DSN [REDACTED]. You now have 48 hours to decide what you want to do.

DATE 07 APR 03	TIME 1730	NAME, GRADE, AND ORGANIZATION OF COMMANDER [REDACTED] COL, JDOG	SIGNATURE [REDACTED]
-------------------	--------------	--	-------------------------

3. Having been afforded the opportunity to consult with counsel, my decisions are as follow: (Initial appropriate blocks, date, and sign)

a.  I demand trial by court-martial.

b.  I do not demand trial by court-martial and in the Article 15 proceedings:

(1) I request the hearing be  Open  Closed, (2) A person to speak in my behalf  is  is not requested

(3) Matters in defense, mitigation, and/or extenuation:  Are not presented  Will be presented in person  Are attached.

DATE 14 APR 03	NAME AND GRADE OF SERVICE MEMBER [REDACTED] SSG (b)(6)5	SIGNATURE [REDACTED]
-------------------	--	-------------------------

4. In a(a)  Open  Closed hearing 3/ all matters presented in defense, mitigation, and/or extenuation, having been considered, the following punishment is imposed: 3/ 6/ Reduction to Sergeant (E5); and extra duty for 45 days.

5. I direct the original DA Form 2627 be filed in the  Performance fiche  Restricted fiche of the OMPP. 7/

6. You are advised of your right to appeal to the MG Miller, JTF CDR within 5 calendar days. An appeal made after time may be rejected as untimely. Punishment is effective immediately unless otherwise stated above.

DATE 14 APR 03	NAME, GRADE, AND ORGANIZATION OF COMMANDER [REDACTED] COL, JDOG	SIGNATURE [REDACTED]
-------------------	--	-------------------------

7. (Initial appropriate block, date, and sign)

a.  I do not appeal b.  I appeal and do not submit additional matters 8/ 9/ c.  I appeal and submit additional matters 8/ 9/

DATE 16 APR 03	NAME AND GRADE OF SERVICE MEMBER [REDACTED] SGT (b)(6)5	SIGNATURE [REDACTED]
-------------------	--	-------------------------

8. I have considered the appeal and it is my opinion that:  
There is no legal objection to the findings or punishment.

DATE 19 APR 03	NAME AND GRADE OF JUDGE ADVOCATE [REDACTED] CPT	SIGNATURE [REDACTED]
-------------------	--	-------------------------

9. After consideration of all matters presented in appeal, the appeal is:  
 Denied  Granted as follows: 10/

DATE 22 APR 03	NAME, GRADE, AND ORGANIZATION OF COMMANDER Geoffrey D. Miller, MG, JTF Guantanamo	SIGNATURE [Signature]
-------------------	--	--------------------------

10. I have seen the action taken on my appeal. DATE 4/24/03 [REDACTED] MEMBER

11. ALLIED DOCUMENTS AND/OR COMMENTS u/ d/ u/ Secret AAR Input Form Camp Delta-GTMO SOP (b)(6)5

023354

except as noted (b)(6)2

SECTION IV - FINDINGS (para 3-10, AR 15-6)

The investigating officer (board), having carefully considered the evidence, finds:

Introduction

I have reviewed the CID investigation of the circumstances surrounding the shooting death of EPW [redacted], ISN [redacted] and the wounding of [redacted]. It is my finding that CID was correct in determining that [redacted] death was justifiable homicide and that the shootings occurred in accordance with the ROE.

Background

[redacted] was an EPW and was shot by SPC [redacted], a US Army MP who was on guard duty at the EPW compound, Camp Bucca, Iraq. According to witness statements, on 18 April 2003, SSG [redacted] was inside the EPW holding pen serving meals as part of the compound Feed team. A disturbance occurred when the brother of [redacted] entered into an argument with another EPW in the feed line. In response, SSG [redacted] and the other members of the feed team dispersed the crowd of EPW's that had gathered. [redacted] returned to the tent and came out with a large tent stake or pole. [redacted] also signaled to other EPW's to do the same. According to SPC [redacted], at least three EPW's had some sort of stick or pole intended to be a weapon. The group of EPW's started moving forward towards the MP feed team. In accordance with doctrine, the feed team is unarmed once they enter the holding pen. For their protection, armed guards take up positions surrounding the holding pen to provide protective fire if needed. SPC [redacted] and SPC [redacted] were on duty as guards to provide protective fire.

As the group of EPW's approached the feed team, the determination was made that a warning shot should be fired. SPC [redacted] who was in visual contact with SPC [redacted] fired one shot into the sand with a Beretta 9mm pistol. The warning shot had no effect on the advancing group of EPW's. [redacted] was within a few feet of SSG [redacted] and continued to swing his weapon at the soldier. At this time SPC [redacted] made the determination that he must use deadly force to stop [redacted] from endangering the life of SSG [redacted] and the other members of the feed team. SPC [redacted] fired one round from his issued M16A2 rifle intended to hit [redacted]. The round missed and hit another EPW in the forearm. This EPW was identified as [redacted]. SPC [redacted] stated to this officer, that [redacted] stopped advancing towards SSG [redacted] for a moment when the first shot was fired, as if he realized he was shot at. However, [redacted] again continued to advance on SSG [redacted]. As [redacted] raised the weapon to attempt to hit SSG [redacted] again, SPC [redacted] fired another round striking [redacted] in the abdomen. [redacted] immediately dropped the weapon and stumbled into the tent. The other EPW's that had joined [redacted] also retreated, thus ending the riot.

[redacted] was then brought out by other EPW's and turned over to the compound guards to receive medical care. He was then transported to the battalion aid station where he died of his wound. [redacted] was also transported to the aid station and brought back to the holding compound after receiving treatment.

See attached CID report Initial/SSI -0035-03-CID259-61144-5H6-5H1D-5C1D-5Y3.

SECTION V - RECOMMENDATIONS (para 3-11, AR 15-6)

In view of the above findings, the investigating officer (board) recommends:

Findings

I concur with each of the findings made by the CID investigating officers, SA [redacted], SA [redacted].

Subject: None: (Justifiable Homicide)

Victim:

1. US Government; [Rioting] [redacted]
2. [redacted] 19 FEB 71; Montebello, CA; M; Unit; 314th MP Company [Attempted Murder] [Aggravated Assault]

Conclusion: I concur with CID report Initial/SSI -0035-03-CID259-61144-5H6-5H1D-5C1D-5Y3. The ROE were followed in the shooting death of EPW [redacted], and the wounding of [redacted]. It is my finding that CID was correct in determining that [redacted] death was justifiable homicide and that the shootings occurred in accordance with the ROE.

This document is a computer generated copy of the original document turned in to COL [redacted] Deputy Brigade Commander, 800th Military Police Brigade. The signed original and all supporting sworn statements or evidence were turned in to COL [redacted] during May or April 2003 by CPT [redacted] and are not in the possession of the 814th MP Company.

Produced on 23 SEP 2004 by:

[redacted signature]

ATTACHED 2 (TWO)  
23 SEP 04