

UNITED STATES )  
                  )  
                  )  
v.              )  
                  )  
GERALD A. SMITH )  
PRIVATE         )  
U.S. ARMY       )

COURT ORDER NUMBER 4

The above-styled case has been duly referred to trial by General Court-Martial on 23 June 1970, said case to be tried by the court appointed by Court-Martial Convening Order Number 27, Headquarters, Third United States Army, Fort McPherson, Georgia, dated 22 June 1970. The court finds that the following orders are necessary and proper in aid of its jurisdiction, for the purpose of governing the conduct of this trial and all proceedings related thereto.

I

The entire structure known as Building 41, Fort McPherson, Georgia, and the contiguous land area as hereinafter described, are designated as the courthouse premises. The contiguous land area shall include the area bounded by the east curb of Hardee Avenue, the south curb of Wheeler Avenue, the west curb of the parking lot west of Building 41, and the south curb of the entrance driveway south of Building 41. The general public and representatives of the news media will be permitted access to the courthouse premises subject to the limitations hereinafter set forth.

II

Members of the general public other than those persons who have been allocated seats in the main courtroom, and representatives of the news media other than those who have been assigned reserved seats in the courtroom, shall not enter the courthouse premises as defined in Paragraph I. The term "general public" does not include those classes of persons named in

Paragraphs III and V, who will have access to the courthouse premises subject to the limitations stated in those paragraphs. Persons who have been allocated seats in the courtroom will enter only through Door 12 ("COURT ROOM"). Should any person willfully violate the provisions of this paragraph in any manner prior to termination of this case, the military police will promptly apprehend such violator and cause an expulsion order from the Fort McPherson military reservation to be issued forthwith.

### III

The following entrances will not be used by the general public or the press at any time and are intended for the uses indicated:

A. Door 1: Court personnel (other than court members); persons having offices in Building 41; persons, other than press representatives, having specific business with the office of the Area Military Judge; the accused; counsel for the government and the defense; and persons connected with any proceedings in the upstairs courtroom, Room 20 (See Paragraph V).

B. Door 2: Court personnel (other than court members), persons having offices in Building 41, the accused, and counsel for the government and the defense.

C. Door 10 ("COURT PERSONNEL ONLY - BAILIFF"): Court personnel (other than court members), the accused and counsel for the government and the defense. This door will be used by the accused and counsel whenever entering or leaving the main courtroom.

D. Door 15 ("COURT MEMBERS"): Members of the court only.

E. Door 16 ("WITNESSES"): Witnesses, interpreters, court personnel (other than court members), escorts or guards for witnesses and interpreters, the accused, and counsel for the government and the defense.

IV

The entrances to Building 41 other than Door 12 ("COURT ROOM") will be kept free and unobstructed for the use of persons authorized to use them. Other persons shall not use these entrances or occupy the porches or steps adjacent to them at any time. The accused in particular shall have free and unobstructed use of the entrances designated for his use without interference of any kind by any person or persons. Should any person willfully violate the provisions of this paragraph in any manner prior to the termination of this case, the military police will promptly apprehend such violator and cause an expulsion order from the Fort McPherson military reservation to be issued forthwith.

V

Room 20 on the second floor of Building 41 is a courtroom and will be used for judicial and quasi-judicial proceedings unconnected with this case from time to time. Personnel connected with any proceedings in Room 20 and spectators (if the proceedings are public) will be afforded unhindered access to this courtroom, to include entrance through Door 1 and use of the stairway. The conduct of such proceedings must not be hindered by the fact that other proceedings are taking place in the same building. No special permit or pass will be required for access to Room 20, but the military police will insure that persons granted access to the room do, in fact, enter Room 20 and do not loiter in the downstairs hallway or enter other rooms within Building 41.

VI

Court personnel, the accused, counsel for the government and the defense, and persons having offices in Building 41 will be issued passes to the building and will display them when requested to gain entrance to

the building. They may authorize other persons to enter the building, when accompanied by them and when necessary in the performance of their duties.

## VII

No cameras, recording devices, or any electronic or mechanical devices or equipment shall be used within the courthouse premises by any person before or during the trial or any related proceedings, or at any recess or adjournment. The use by official court reporters and personnel with offices in Building 41 of such mechanical or electronic devices, including recording equipment, as may be necessary in the performance of their duties is not prohibited, but only the official court reporters may use such devices in the courtroom itself.

## VIII

The official court reporters reporting these proceedings are prohibited from selling, giving, furnishing or disseminating any transcript of these proceedings to any person other than the military judge, counsel for the defense and the government, the accused, and those persons hereafter specifically designated by this court.

## IX

No person shall be permitted to enter the courtroom after the commencement of the session, nor shall he be permitted to leave except during a recess, after adjournment, or in case of an emergency. Persons departing the courtroom at the time of recess or adjournment shall not leave their seats until the members of the court have fully retired from the courtroom. Persons who violate this order shall thereafter be barred from the courtroom, except upon showing of good cause. The provisions of this paragraph shall not apply to court personnel or members of the prosecution or the defense and their staff members who are conducting official business.

X

Spectators in the courtroom, including the press, shall be limited to forty persons. A maximum of twenty seats, no closer to the bar railing than the second row, will be reserved for the news media. Relatives of the accused and other persons designated by him will be seated on the front row and, if that space is insufficient, in other available seats. The remainder of the seats in the spectator section will be available to the general public, and no general public seats will be reserved for any individual or organization.

XI

This court does not possess the personnel necessary to administer the admission of representatives of the news media and the general public to the courtroom. Therefore, the Third U. S. Army Information Office is assigned the responsibility for determining the accreditation of, and assignment of reserved seats to, representatives of the news media. Credentials for news media will be used only by accredited representatives of the news media to whom issued. The Third U. S. Army Provost Marshal's Office is assigned the responsibility for allocating the seats available to the general public and for controlling the admission of all persons, including news media representatives, to the courtroom. The allocation of seats for the general public will not necessarily be in order of their appearance but will be accomplished in the most equitable manner possible. Necessary building and courtroom passes will be issued by the Information Office in coordination with the Provost Marshal's Office.

XII

The bar of the court within the rail is reserved for court personnel, the accused, counsel for the prosecution and the defense, witnesses while

testifying, and such persons as counsel may desire to be within the bar for consultation purposes. Spectators, including the representatives of the news media, shall not be permitted inside the bar railing at any time, whether the court is in session or not.

XIII

No one except the attorneys of record, witnesses while testifying, the accused, court personnel, and other persons specifically authorized by the court may handle any exhibits.

XIV

Witnesses, members of the court and other court personnel, all counsel participating in this case and their employees, and all military and civilian personnel who have participated, are participating, or are expected to participate in the processing of this case before, during, or after trial are forbidden from making any public disclosure of any kind, directly or indirectly, except as may be required in the course of judicial proceedings, concerning the evidence in this case.

XV

The Code of Professional Responsibility of the American Bar Association is hereby incorporated in and made a part of this order.

XVI

This order shall be in force from this date forward until the termination of this case by findings or sentence, as appropriate, or by other legal determination having the effect of terminating these proceedings; or until further order of this court. However, this order shall not be construed as affecting the conduct of proceedings in other cases which may take place within the courthouse premises during this period of time.

XVII

A sketch of Building 41, Fort McPherson, Georgia, is attached hereto as Annex 1.

XVIII

The trial counsel is directed to serve, or cause to be served, a copy of this order on each member of the news media accredited by the Third United States Army Information Office, provision having already been made elsewhere for service on other affected persons of orders pertaining to them and having the same effect as the pertinent portions of this order.

Dated this 2nd day of July 1970.

/s/ Richard L. Jones  
/t/ RICHARD L. JONES  
Military Judge

BUILDING 41

JUDICIAL AREA III

FIRST FLOOR

East Side

