

Accused

VERBATIM

RECORD OF TRIAL¹

(and accompanying papers)

of

MANION, Terry F.

(Last name, first name, middle initial)

237 89 42

(Service number)

Private E-1

(Rank or grade)

VMFA-451, MAG-31

Marine Corps Air Station

U. S. Marine Corps

Beaufort, South Carolina 29902

(Organization and armed force)

(Station or ship)

By

GENERAL

COURT-MARTIAL

Appointed by

COMMANDING GENERAL

(Title of convening authority)

2d Marine Aircraft Wing, FMF, Atlantic

(Command of convening authority)

Tried at

MCAS, Cherry Point, N. C.

(Place or places of trial)

on 21 April

19 70

(Date or dates of trial)

CHRONOLOGY SHEET ¹

In the case of
(Name of accused)

Date of alleged commission of earliest offense tried: 19.....

Date record forwarded to The Judge Advocate General: ²..... 19.....

.....
(Signature and rank of staff judge advocate or legal officer)

¹ In a case forwarded to The Judge Advocate General, the staff judge advocate or legal officer is responsible for completion of the Chronology Sheet. Trial counsel should report any authorized deductions and reasons for unusual delay in the trial of the case.

² Or supervisory authority under art. 65c (par. 94d (1), (2), MCM, 1951).

³ In computing days between two dates, disregard first day and count last day. The actual number of days in each month will be counted.

⁴ Item 1 is not applicable when accused is not arrested or confined or when he is in confinement under a sentence of court-martial at time charges preferred. Item 2 will be the zero date if item 1 is not applicable.

⁵ May not be applicable to trial by special court-martial.

⁶ Only this item may be deducted.

⁷ If sentence, as approved by convening authority under item 8, does not involve BCD, items 1 to 8 will be completed, and chronology signed, by such convening authority or his representative.

	Date 19.....	Cumulative Elapsed Days ¹
1. Accused arrested or confined by military authority of command in which trial held ⁴	0
2. Charges preferred (date of affidavit)
3. Article 32 investigation (date of report) ⁵
4. Charges received by convening authority
5. Charges referred for trial
6. Sentence or acquittal
Less days: Accused sick, in hospital, or AWOL
Delay at request of defense
Total authorized deduction ⁶
7. Net elapsed days to sentence or acquittal
8. Record received by convening authority (if other than GCM authority in item 9)
Action ⁷
9. Record received by officer authorized to convene GCM ²
Action ²

REMARKS:

HEADQUARTERS
2d Marine Aircraft Wing, FMF, Atlantic
Marine Corps Air Station, Cherry Point, N. C. 28533

21 April 1970

From: Private Terry F. MARION, 237 89 42, U. S. Marine Corps
To: Judge Advocate General of the Navy

Subj: Appellate rights

Ref: (a) Par 48k(3), MCM (Revised edition), 1969
(b) Art 66, UCMJ

1. In accordance with reference (a), I have been informed of my appellate rights, including the right to be represented by appellate defense counsel before the Court of Military Review established pursuant to reference (b) in the review of my trial by GENERAL courts-martial held on 21 April 1970 at Marine Corps Air Station, Cherry Point, N. C.

2. I (do) (~~do not~~) desire to be represented by appellate defense counsel before the said Court of Military Review.

Terry F. Marion
TERRY F. MARION

WITNESS:

J. J. BENICHAEL, Capt., USMC
(Defense Counsel ~~XXXXXXXXXXXXXXXXXX~~)

21 April 1970

(Date)

HEADQUARTERS
2d Marine Aircraft Wing, FMF, Atlantic
Marine Corps Air Station, Cherry Point, N. C. 28533

17/ERF:omh
5800
7 Apr 1970

From: Wing Staff Judge Advocate
To: Commanding General, 2d Marine Aircraft Wing

Subj: Recommendation for trial by general court-martial; case of
Private First Class Terry F. MANION, 237 89 42, U. S. Marine
Corps

Ref: (a) MCM, 1969 (Revised Edition) Par 35
(b) Article 32, UCMJ

Encl: (1) Art 32 InvRpt, case of PFC MANION
(2) SRB of Accused

1. I have reviewed the subject recommendation in accordance with
reference (a). My opinions and recommendations are as follows:

a. There has been substantial compliance with reference (b).
The accused was represented by appointed counsel, Captain E. A.
DEL BELLO, U. S. Marine Corps Reserve, a lawyer certified under
Article 27(b) of the Uniform Code of Military Justice, throughout
the investigation. The accused was present during the introduction
of all evidence against him, and was afforded the right to introduce
evidence in his own behalf.

b. Charge I and its Specification allege an offense under Article
87 of the Uniform Code of Military Justice. The evidence introduced
at the pre-trial investigation would appear to warrant the allegation.

The specification alleges that the accused missed the move-
ment of a flight to Yuma, Arizona, through neglect, on 5 May 1969. Testi-
mony of the accused's Officer-In-Charge, at the time, Chief Warrant Of-
ficer-2 FRAUMAN, showed that the unit was scheduled to go on a weapons
deployment to Marine Corps Air Station, Yuma on 5 May. Chief Warrant
Officer FRAUMAN further testified that each man scheduled to deploy was
listed on an aircraft manifest that he had to initial, that each man's
Noncommissioned-Officer-In-Charge informed him of the departure plans,
and that he himself had a meeting of the entire shop at which he went
over the movement plans. Further, Chief Warrant Officer FRAUMAN saw
the accused still aboard the air station after the planes had left for
Marine Corps Air Station, Yuma.

c. Charge II and its Specification allege an offense under Article 86 of the Uniform Code of Military Justice. Specifically, they allege an unauthorized absence from 12 May 1969 until 31 July 1969. The allegation appears to be warranted by the evidence.

The entries on the page 12 of the accused's service record book establish that the accused was in fact absent without authority for the period alleged.

d. The Additional Charge and its Specification allege an offense under Article 86 of the Uniform Code of Military Justice. Specifically they allege an unauthorized absence from 8 August 1969 until 26 January 1980. This Charge also appears warranted by the evidence introduced at the pre-trial investigation.

The page 13 entries establish that the accused was on unauthorized absence for the period alleged.

2. The service record book of the accused reveals that he is 22 years old and single. He enlisted in the Marine Corps on 16 October 1967 for a period of four years. He is a high school graduate and has a GCT of 116. His primary MOS is (1110) and his average markings are General Military Subjects Proficiency, 1.0, Proficiency, 4.1, and Conduct, 4.0 (not including two marks of "0" for desertion). He is entitled to wear the National Defense Service Medal. His record further discloses the following Summary Courts-Martial and Nonjudicial punishment:

3Apr69 - REM: VLO1 Art 82, UCMJ. Failure to report as ordered to JMS, HQAS, CTRC by 2400, 23Mar69. Sentenced to CHL for 15 days and forfeit \$40.00 per mo for 1 mo. CA on 3Apr69 approved and ordered executed. SA on 1May69 approved.

27Feb69 - RJP: VLO1 Art 86, USMJ. RA from 14-24Feb69. And violation for 30 days, red to E-2, and forfeit \$25.00 per mo for 2 mo. Had suspended for 4 mo with probationary for automatic revulsion.

3. The pre-trial investigating officer and the Commanding Officer, Marine Aircraft Group 31, recommend that the accused be referred to trial by general court-martial on the charges and specifications discussed herein. After careful consideration of these recommendations, the nature of the offenses, and the past record of the accused, I concur in their recommendations.

17/EBF:cmh
5800

4. Upon conviction of the offenses which I have recommended for trial a general court-martial could adjudge a maximum sentence of dishonorable discharge, confinement at hard labor for a period of two years and six months, reduction to pay grade E-1, and total forfeitures of all pay and allowances.

5. An endorsement has been prepared for your signature to effect this recommendation in the event you concur therein.

E. B. FALLON

HEADQUARTERS
Marine Aircraft Group 31, 2dMAW, FMFlant
MCAS, Beaufort, South Carolina 29902

17:JDH:jdh
5813
17 March 1970

From: Commanding Officer
To: Commanding General, 2d Marine Aircraft Wing, Fleet
Marine Force, Atlantic, Marine Corps Air Station,
Cherry Point, North Carolina (Attn: Staff Legal)

Subj: Recommended trial by General Court-Martial in the
case of Private Terry F. MANION, 237 89 42, USMC

Ref: (a) Article 33, UCMJ
(b) MCM, 1969


Encl: (1) Investigating Officer's Report (Form DD-457) dtd 16Mar70
with enclosures and service record book of the accused
attached
(2) Chronological Record dtd 17 March 1970

1. In compliance with references (a) and (b), it is recommended that Private Terry F. MANION, be brought to trial before a general court-martial on the charges of Violation of the Uniform Code of Military Justice, Article 87, one specification, and Violation of the Uniform Code of Military Justice, Article 86, two specifications. Enclosure (1) is forwarded to amplify this recommendation.

2. All personnel expected to be called as witnesses in the subject case are presently station aboard this command and will be retained pending trial.

4. Enclosure (2) is forwarded to explain the failure to forward this recommendation with the time limit prescribed in reference (a).

5. Private Terry F. MANION, U. S. Marine Corps is presently in pre-trial confinement at the Station Brig, Marine Corps Air Station, Cherry Point, North Carolina.


V. J. PEEBLES
Colonel, U. S. Marine Corps
Commanding

HEADQUARTERS
Marine Aircraft Group 31, 2dMAW, FMFLant
MCAS, Beaufort, South Carolina 29902

17:JDH:jdh
5813
17 March 1970

From: Commanding Officer
To: Commanding General, 2d Marine Aircraft Wing, Fleet
Marine Force, Atlantic, Marine Corps Air Station,
Cherry Point, North Carolina

Subj: Chronological record of processing in Article 32,
Pretrial Investigation in the case of Pvt. Terry
F. MANION, 237 89 42, USMC

Ref: (a) Article 33, UCMJ

1. In accordance with reference (a), time periods involved in
the subject investigation were as follows:

- a. 26Jan70 - Accused apprehended by Civil Authorities
- b. 12Feb70 - Accused deliver under guard to VMFA-451,
MAG-31, MCAS, Bft., S. C./Additional Charge
Article 85 added to Charge Sheet/Office
Hours held by CO, VMFA-451/Accused referred
to CO, MAG-31 recommending trial by GCM
- c. 13Feb70 - Charge Sheet received at Group Legal Office
- d. 14 & 15
Feb 70 - Weekend
- e. 16Feb70 - Case reviewed by MAG-31 Legal Office
- f. 18Feb70 - CO, MAG-31 signs Appointing Order for Article
32 Investigation/Materials sent to Investigating
Officer
- g. 3Mar70 - Request from Investigating Officer for extension
of time received/Extension granted
- h. 11Mar70 - Article 32 Investigation held this date
- i. 14 & 15
Mar70 - Weekend
- j. 16Mar70 - Investigation completed and typed this date
- k. 17Mar70 - Investigation forwarded to CG, 2dMAW recommending
trial by GCM.


L. M. PHILLIP
By direction

INVESTIGATING OFFICER'S REPORT (Of charges under the provisions of Article 32, Uniform Code of Military Justice, and paragraph 34, Manual for Courts-Martial, U.S., 1951)			FIRST INDORSEMENT
FROM: (Grade, name and organization of investigating officer)		DATE OF REPORT	
Major W. P. FINNEGAN, MABS-31, MAG-31, 2dMAW, FMFLant		16 March 1970	
TO: (Title and organization of officer who directed report to be made)			
Commanding Officer, Marine Aircraft Group 31			
GRADE AND NAME OF ACCUSED	SERVICE NUMBER	ORGANIZATION	
Pvt. Terry P. MANION	237 89 42	VMFA-451, MAG-31, 2dMAW, FMFLant	
(Check appropriate answer)		DATE OF CHARGES	
		7 May 1969	
		YES NO	
1. IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 32, UNIFORM CODE OF MILITARY JUSTICE, AND PARAGRAPH 34, MANUAL FOR COURTS-MARTIAL, 1951, I HAVE INVESTIGATED THE CHARGES (Exhibit 1) APPENDED HERETO. (If, and as soon as, it is determined the accused elects not to be represented by counsel or by qualified counsel during the investigation, the investigating officer will complete in ink items 1 through 4, except 4f, and will ask the accused to sign item 4e.)		X	
2. AT THE OUTSET OF THE INVESTIGATION I READ TO THE ACCUSED THE PROVISIONS OF ARTICLE 31, UNIFORM CODE OF MILITARY JUSTICE, AND ALSO ADVISED HIM:		X	
a. OF THE NATURE OF THE OFFENSE(S) CHARGED AGAINST HIM		X	
b. OF THE NAME OF THE ACCUSER		X	
c. OF THE NAMES OF THE WITNESSES AGAINST HIM SO FAR AS KNOWN BY ME.		X	
d. THAT THE CHARGES WERE ABOUT TO BE INVESTIGATED BY ME		X	
e. OF HIS RIGHT, UPON HIS REQUEST, TO HAVE COUNSEL REPRESENT HIM AT THE INVESTIGATION, EITHER--		X	
(1) CIVILIAN COUNSEL, IF PROVIDED BY HIM, OR		X	
(2) MILITARY COUNSEL OF HIS OWN SELECTION, IF SUCH COUNSEL BE REASONABLY AVAILABLE, OR		X	
(3) COUNSEL, QUALIFIED UNDER ARTICLE 27(b), APPOINTED BY THE OFFICER EXERCISING GENERAL COURT-MARTIAL JURISDICTION		X	
f. OF HIS RIGHT TO CROSS-EXAMINE ALL AVAILABLE WITNESSES AGAINST HIM		X	
g. OF HIS RIGHT TO PRESENT ANYTHING HE MIGHT DESIRE IN HIS OWN BEHALF, EITHER IN DEFENSE OR MITIGATION		X	
h. OF HIS RIGHT TO HAVE THE INVESTIGATING OFFICER EXAMINE AVAILABLE WITNESSES REQUESTED BY HIM		X	
i. OF HIS RIGHT TO MAKE A STATEMENT IN ANY FORM		X	
j. OF HIS RIGHT TO REMAIN SILENT OR TO REFUSE TO MAKE ANY STATEMENT REGARDING ANY OFFENSE OF WHICH HE WAS ACCUSED OR CONCERNING WHICH HE IS BEING INVESTIGATED		X	
k. THAT ANY STATEMENT MADE BY HIM MIGHT BE USED AS EVIDENCE AGAINST HIM IN A TRIAL BY COURT-MARTIAL		X	
3. a. THE ACCUSED REQUESTED MILITARY COUNSEL BY NAME		X	
b. NAME AND GRADE OF SUCH COUNSEL	ORGANIZATION		
N/A	N/A		
c. MILITARY COUNSEL REQUESTED BY NAME WAS QUALIFIED WITHIN THE MEANING OF ARTICLE 27(b), UNIFORM CODE OF MILITARY JUSTICE		N/A	
d. IF ANSWER TO PRECEDING ITEM WAS "NO", ACCUSED WAS INFORMED THAT SUCH UNQUALIFIED COUNSEL MAY NOT REPRESENT HIM AT ANY GENERAL COURT-MARTIAL		N/A	
e. MILITARY COUNSEL REQUESTED BY NAME WAS REASONABLY AVAILABLE. (If not available, explain in item 18, having reference to paragraph 34c, Manual for Courts-Martial, 1951, page 46)		N/A	
f. THE ACCUSED STATED HE WOULD BE REPRESENTED BY CIVILIAN COUNSEL		X	
g. NAME AND ADDRESS OF SUCH COUNSEL	MEMBER OF THE BAR OF		
N/A	N/A		
h. (This item to be used by accused's civilian counsel only)		N/A	
Place and date			
I HEREBY ENTER MY APPEARANCE FOR THE ABOVE-NAMED ACCUSED AND REPRESENT THAT I AM A MEMBER OF THE BAR OF		N/A	
(Signature of Counsel)			
4. a. THE ACCUSED REQUESTED THAT COUNSEL BE APPOINTED BY THE GENERAL COURT-MARTIAL AUTHORITY TO REPRESENT HIM		X	
b. NAME AND GRADE OF SUCH APPOINTED COUNSEL	ORGANIZATION		
R. A. DEL BELLO, Captain	H&HS, MCAS, Beaufort, S.C.		
c. APPOINTED COUNSEL (as in b above) WAS QUALIFIED WITHIN THE MEANING OF ARTICLE 27(b), UNIFORM CODE OF MILITARY JUSTICE		X	
d. IF ANSWER TO PRECEDING ITEM (4c) IS "NO", ACCUSED SPECIFICALLY WAIVED COUNSEL WITH SUCH QUALIFICATIONS		N/A	
e. (To be signed by accused if answer to 3a and 4a, or 3c, or 4c was "NO". If accused fails to sign, investigating officer will explain circumstances in detail in item 18)		N/A	
Date			
I HAVE BEEN INFORMED OF MY RIGHT TO REPRESENTATION AT THE INVESTIGATION BY COUNSEL QUALIFIED UNDER ARTICLE 27(b), UNIFORM CODE OF MILITARY JUSTICE. I HEREBY WAIVE MY RIGHT TO (SUCH QUALIFIED COUNSEL) (COUNSEL).			
(Signature of Accused)			
NOTE: If additional space is required for any item, enter the additional material on a separate sheet. Be sure to identify such material with the proper numerical and, when appropriate, lettered heading (Example, "5c"). Securely attach any additional sheet to the form and add a note in the appropriate item of the form: "See additional sheet." Any matters considered pursuant to paragraph 34, MCM, 1951, which are not identifiable with some other heading in the form should be entered in item 18.			

DD FORM 1 JUN 59 457

PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.

5/M 0101-801-3800

(Check appropriate answer continued)

YES NO

f. COUNSEL FOR THE ACCUSED WAS PRESENT THROUGHOUT THE INVESTIGATION (If the accused waives the right to have counsel present throughout all or a part of the investigation after having requested counsel, state the circumstances and the particular proceedings conducted in the absence of such counsel)

XX

5. a. IN THE PRESENCE OF THE ACCUSED I HAVE INTERROGATED ALL AVAILABLE WITNESSES UNDER DATH OR AFFIRMATION AND HAVE EXAMINED ALL DOCUMENTARY EVIDENCE ON BOTH SIDES.

X

b. I HAVE REDUCED THE MATERIAL TESTIMONY GIVEN BY EACH SUCH WITNESS UNDER DIRECT AND CROSS-EXAMINATION TO A SWORN OR AFFIRMED WRITTEN STATEMENT EMBODYING THE SUBSTANCE OF THE TESTIMONY TAKEN ON BOTH SIDES.

X

c. THE SWORN OR AFFIRMED WRITTEN STATEMENTS OF SUCH WITNESSES ARE APPENDED HERETO AS INDICATED:

X

NAME AND GRADE OF WITNESSES
WHO WERE PRESENT

ORGANIZATION OR ADDRESS

EXHIBIT
NUMBER

6. a. THE SUBSTANCE OF THE EXPECTED TESTIMONY OF EACH OF THE FOLLOWING ABSENT WITNESSES WHOSE PRESENCE WAS NOT REQUESTED BY THE ACCUSED, OR WHO, HAVING BEEN REQUESTED, WERE NOT AVAILABLE, OR FOR WHOM THE REQUEST WAS WITHDRAWN, WAS OBTAINED FROM SUCH WITNESSES IN THE FORM OF A SWORN OR AFFIRMED WRITTEN STATEMENT, OR WAS STIPULATED TO BY THE ACCUSED IN WRITING. SUCH STATEMENTS OR STIPULATIONS ARE APPENDED HERETO AS INDICATED:

NAME AND GRADE OF ABSENT WITNESSES

ORGANIZATION OR ADDRESS

EXHIBIT
NUMBER

CMO2 W.W. FRAUTMAN, USMC

VMFA-451, MAG-31, MCAS, Bft., S.C.

7

b. A COPY OF EACH SUCH WRITTEN STATEMENT HAS BEEN SHOWN TO THE ACCUSED.

X

c. IF AN ABSENT WITNESS IS REQUESTED BY THE ACCUSED BUT IS NOT AVAILABLE, ENTER A PROPER EXPLANATION

7. a. THE FOLLOWING DOCUMENTS HAVE BEEN EXAMINED, SHOWN TO THE ACCUSED, AND ARE APPENDED AS INDICATED (describe documents)

EXHIBIT
NUMBER

MPRep #281-70-270 dtd 27Jan70

1

Page 13(1) fr Accused's SRB

2

Attesting Cert dtd 5Aug69

3

b. IF ANY DOCUMENTS MADE AVAILABLE TO THE INVESTIGATING OFFICER WERE NOT EXAMINED OR WERE EXAMINED BUT NOT SHOWN TO THE ACCUSED, OR WERE EXAMINED BUT ARE NOT APPENDED, STATE THE REASONS

8. a. THE FOLLOWING DESCRIBED REAL EVIDENCE WAS EXAMINED, SHOWN TO THE ACCUSED, AND IS NOW PRESERVED FOR SAFEKEEPING AS INDICATED:

X

b. IF CERTAIN REAL EVIDENCE WHICH WAS EXAMINED WAS NOT SHOWN TO THE ACCUSED, STATE THE REASONS

18. REMARKS (If more space is required, attach additional sheets. Check ☐ YES ☒ NO if additional sheets are attached)

Documents examined during the investigation indicate that, due to the presence of a valid identification card and no evidence of denial of being a member of the armed forces, that Charge II, a violation of Article 85, UCMJ, desertion, should be changed to a violation of Article 86, UCMJ, unauthorized absence.

7.a. Appt order 17:LMP:jdh over 5830 dtd 18Feb70
Req for ext of time dtd 3Mar70
1st End on Maj. FINNEGAN's ltr dtd 3Mar70
UD#087-69 dtd 690505 (2 Pages)
UD#087-69 (3 Pages)
Form DA 1132 dtd 27Jan70
Form DA 1132

4
5
6
8
9
10
11

19. I HAVE NO PREVIOUS CONNECTION WITH THIS CASE OR ANY CLOSELY RELATED CASE. (If any connection is indicated, attach a full explanation.) I AM NOT AWARE OF ANY REASONS WHICH WOULD DISQUALIFY ME FROM ACTING AS INVESTIGATING OFFICER. (If any reasons appear to exist, attach a statement giving full details.)

TYPED NAME, GRADE, AND ORGANIZATION OF INVESTIGATING OFFICER

SIGNATURE

W. P. FINNEGAN, Maj, MABS-31, MAG-31
2dMAW, FMFLant, MCAS, Beaufort, S.C.

(Check appropriate answer continued)		YES	NO
9. THE ACCUSED AFTER HAVING BEEN INFORMED OF HIS RIGHT TO MAKE A STATEMENT OR REMAIN SILENT:			
a. STATED THAT HE DID NOT DESIRE TO MAKE A STATEMENT			X
b. MADE A STATEMENT APPENDED HERETO (Exhibit).			X
c. THE CIRCUMSTANCES OF THE TAKING OF ANY CONFESSION OR ADMISSION OF ACCUSED WERE INQUIRED INTO BY ME AND SUCH CONFESSION OR ADMISSION APPEARS TO HAVE BEEN OBTAINED IN ACCORDANCE WITH ARTICLE 31, UNIFORM CODE OF MILITARY JUSTICE, AND/OR THE 5TH AMENDMENT. (Where appropriate, attach statement of person taking confession or admission showing circumstances of taking)			X
d. THE ACCUSED, AFTER BEING ADVISED THAT HE DID NOT HAVE TO MAKE ANY STATEMENT WITH RESPECT TO IT, WAS SHOWN THE CONFESSION OR ADMISSION AND DID NOT CONTEST IT AS BEING NOT IN COMPLIANCE WITH ARTICLE 31, UNIFORM CODE OF MILITARY JUSTICE. (If the confession or admission was contested, attach accused's explanation of the circumstances.)			X
10. a. THERE WERE REASONABLE GROUNDS FOR INQUIRING INTO THE MENTAL RESPONSIBILITY OF THE ACCUSED AT THE TIME OF THE ALLEGED OFFENSE (MCM, 120b)			X
b. THERE WERE REASONABLE GROUNDS FOR INQUIRING INTO THE MENTAL CAPACITY OF THE ACCUSED AT THE TIME OF THE INVESTIGATION (MCM, 120c)			X
c. IF GROUNDS FOR INQUIRY AS TO THE ACCUSED'S MENTAL CONDITION EXISTS, STATE REASONS THEREFOR AND ACTION TAKEN			
d. A REPORT OF A (BOARD OF MEDICAL OFFICERS) (PSYCHIATRIST) IS APPENDED (Exhibit)			X
11. ALL ESSENTIAL WITNESSES WILL BE AVAILABLE IN THE EVENT OF TRIAL. (If any essential witness(es) will not be so available, list name, address, reason for nonavailability, and recommendation, if any, whether a deposition should be taken. List estimated date of separation and/or transfer, if pertinent and available)		X	
12. EXPLANATORY OR EXTENUATING CIRCUMSTANCES ARE SUBMITTED HERewith.			X
13. a. I HAVE INVESTIGATED AND FIND <u>1</u> PREVIOUS CONVICTION(S) OF OFFENSES COMMITTED WITHIN THE THREE YEARS NEXT PRECEDING THE COMMISSION OF AN OFFENSE WITH WHICH THE ACCUSED IS NOW CHARGED (MCM, 1951, par 75b(2)) AND DURING:		X	
(1) A CURRENT ENLISTMENT, VOLUNTARY EXTENSION OF ENLISTMENT, APPOINTMENT, OR OTHER ENGAGEMENT OR OBLIGATION FOR SERVICE OF THE ACCUSED, OR			X
(2) THE LAST ENLISTMENT, APPOINTMENT, OR OTHER ENGAGEMENT OR OBLIGATION FOR SERVICE OF THE ACCUSED WHICH TERMINATED UNDER OTHER THAN HONORABLE CONDITIONS OR FROM WHICH THE ACCUSED DESERTED AND SUBSEQUENTLY ENLISTED.			X
b. AN EXTRACT COPY OF THE ACCUSED'S MILITARY RECORDS OF PREVIOUS CONVICTIONS IS APPENDED (Exhibit)		X	
14. IN ARRIVING AT MY CONCLUSIONS I HAVE CONSIDERED NOT ONLY THE NATURE OF THE OFFENSE(S) AND THE EVIDENCE IN THE CASE, BUT I HAVE LIKEWISE CONSIDERED THE AGE OF THE ACCUSED, HIS MILITARY SERVICE, AND THE ESTABLISHED POLICY THAT TRIAL BY GENERAL COURT-MARTIAL WILL BE RESORTED TO ONLY WHEN THE CHARGES CAN BE DISPOSED OF IN NO OTHER MANNER CONSISTENT WITH MILITARY DISCIPLINE.		X	
15. THE CHARGES AND SPECIFICATIONS ARE IN PROPER FORM AND THE MATTERS CONTAINED THEREIN ARE TRUE, TO THE BEST OF MY KNOWLEDGE AND BELIEF: (If the answer is "NO", explain and indicate recommended action on additional sheet).		X	
16. ANY INCLOSURES RECEIVED BY ME WITH THE CHARGES AND NOT LISTED ABOVE AS AN EXHIBIT ARE SECURELY FASTENED TOGETHER AND APPENDED HERETO AS ONE EXHIBIT (Exhibit . If no such inclosures were received, check "NO".)			X
17. (Check appropriate box ONLY if trial is recommended)			
TRIAL BY <input checked="" type="checkbox"/> GENERAL <input type="checkbox"/> SPECIAL <input type="checkbox"/> SUMMARY COURT-MARTIAL IS RECOMMENDED.			

MILITARY POLICE REPORT				DD #3 dtd 27 Jan 70		MFR #281-70-278	
For use of this form, see AR 190-45; the proponent agency is the Office of The Provost Marshal.				27 Jan 70		(For cross reference)	
<div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> INFORMATION <input type="checkbox"/> COMPLAINT <input type="checkbox"/> COMMANDING OFFICER'S REPORT OF ACTION REQUIRED (See reverse side) </div> </div>							
THRU: Commanding General Marine Corps Air Station TO: ATTN: Provost Marshal Beaufort, South Carolina				FROM: Provost Marshal Office Fort McPherson, Georgia			
1. SUBJECT/COMPLAINANT/DOY: 2 Jan 48 PVT E-2 MANIAN, Terry Frank		2. SERVICE NO./SSAN 2378942		3. ORGANIZATION (Include location & tel nr) Mag 31, VMFA 451, Beaufort, S.C.			
4. DESCRIPTION (Complete on all civilians and military personnel whose identity is in question)							
COLOR OF EYES Brown	COLOR OF HAIR Brown	COMPLEXION Fair	AGE 22	WEIGHT 164	HEIGHT 66"	IDENTIFYING MARKS (Tattoos, scars, etc.) None noted.	
5a. DRESS		b. CONDITION		c. BEHAVIOR		d. UNDER INFLUENCE OF (Check appropriate box) <input type="checkbox"/> ALCOHOL <input type="checkbox"/> OTHER (Explain)	
<input type="checkbox"/> UNIFORM	<input type="checkbox"/> CLEAN	<input type="checkbox"/> COOPERATIVE					
<input type="checkbox"/> CIVILIAN CLOTHING	<input type="checkbox"/> DIRTY	<input type="checkbox"/> UNCOOPERATIVE					
	<input type="checkbox"/> NEAT	<input type="checkbox"/> BELLIGERENT					
		<input type="checkbox"/> MUSED					
6. COMPLAINT (Specify type and location) DESERTION (APPREHENDED FEDERAL)				Roseroom, Moreland Ave Atlanta, Ga.		HOUR 2240 DATE 26 Jan 70	
7. RECEIVED BY (Typed or printed name, grade, and position) RANSLOW, Lawrence G. SGT E-5 MP D/SGT						<input type="checkbox"/> IN PERSON <input type="checkbox"/> BY TELEPHONE <input type="checkbox"/> BY MAIL	
8. DETAILS OF INFORMATION OR COMPLAINT (WHO, WHAT, WHEN, WHERE, HOW and WHY. Continue in 'REMARKS' on reverse side. Attach statements of personnel related to report, as appropriate.) At the above time, date and location Subject was apprehended by FBI Agents THOMPSON, Robert and PONDERY, James. Subject was transported and released to MP D/SGT RANSLOW at Bldg #102, Ft. McPherson Ga at 2250 hrs, 26 Jan 70. Subject AWOL as of 8 Aug 69, DMR: 7 Sep 69, verified by DD Form 553 dtd 9 Sep 69 prepared by MCAS, Beaufort, S.C. Subject had a valid ID card in his possession. PREVIOUS RECORD: NONE							
9. EVALUATION: <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> MISDEMEANOR <input type="checkbox"/> FELONY <input checked="" type="checkbox"/> MILITARY OFFENSE <input type="checkbox"/> TRAFFIC							
10. PERSONS RELATED TO REPORT (Insert category of relationship letter opposite name. Continue on reverse side)							
A COMPLAINANT	B VICTIM	C SUSPECT	D WITNESS	E MIL POLICE	F INVESTIGATED BY	G APPREHENDED BY	
NAME		GRADE		SERVICE NO./SSAN	ORGANIZATION OR ADDRESS		
G THOMPSON, Robert		FBI Agent			FBI Section, Atlanta, Ga		
G PONDERY, James		FBI Agent			FBI Section, Atlanta, Ga		
E RANSLOW, Lawrence		SGT		018 36 1563	525th MP Co, Ft McPherson, Ga		
11. DISPOSITION OF: INFORMATION/COMPLAINT (See a.) OFFENDER (See b.) EVIDENCE (See c.)							
a. REFERRED TO:				c. EVIDENCE (List and describe, or summarize as appropriate)			
<input type="checkbox"/> PATROL							
<input type="checkbox"/> MPC (See report number at top of page)							
<input type="checkbox"/> OTHER AGENCY (Specify)							
<input type="checkbox"/> NONE							
b. OFFENDER Rel to 6th Marine District, Atlanta, Georgia							
INCLOSURES (Statements and receipts)		DISTRIBUTION 1- CG 1- CO, Mag 31 1- 6th Marines 1- FILE		FOOTMARKS/COMMENTS: (Strike out if inapplicable)			
				TYPED NAME, GRADE, AND TITLE OF REPORTING OFFICER MARION F SODER, MAJ, MPC Provost Marshal			
				SIGNATURE <i>Marion F Soder</i> M.S.S.			

DA FORM 19-32
1 SEP 60

REPLACES DD FORMS 578, 581, AND 582
WHICH ARE OBSOLETE IN THE ARMY

Exhibit 1

RECORD OF CONVICTION BY COURT-MARTIAL

1. ORGANIZATION

VMFA-451, MAG-31, 2dMAW, FMFLant, MCAS, Beaufort, S. C. 29902

DATE OF TRIAL

3 April 1969

2. TRIED BY:
(Check one)

☒ SUMMARY COURT-MARTIAL
 ☐ SPECIAL COURT-MARTIAL
 ☐ GENERAL COURT-MARTIAL

3. SUMMARY OF CHARGES AND SPECIFICATIONS:

Chg - Violation art 92: Spec. Failure to obey a lawful order issued by Col Lonnie P. BATES, USMC to report by 2400, 23Mar69 to the OIC, at the Joint Reception Center, MCAS, Cherry Point, N.C. for TAD for a period of about 15 days in connection with Ordnance NANO Training, class convening 24Mar69, did, while enroute to MCAS, Cherry Point, N. C. on or about 23Mar69 at 2400, fail to obey the same by failing to report by 2400, 23Mar69.

4. FINDINGS ON EACH CHARGE AND SPECIFICATIONS:

Chg--Guilty
 SPEC to Chg--Guilty

5. SENTENCE ADJUDGED:

To be confined at hard labor for fifteen days and to forfeit \$40.00 per month for one month.

6. CONVENING AUTHORITY'S ACTION

DATE OF ACTION: 3 April 1969

 Approved and ordered executed.

7. COMPLETE ONE: ☒ DISBURSING OFFICER NOTIFIED Date: 7Apr69 UD#067-69 ☐ PAY STATUS NOT AFFECTED

8. SIGNATURE
O. L. BUNGARNER

9. RANK
1stLt

10. TITLE AND ORGANIZATION
AdminO, By direction, VMFA-451, MAG-31 2dMAW, FMFLant, MCAS, Beaufort, S. C.

11. SUPERVISORY AUTHORITY'S ACTION ON FINDINGS AND SENTENCE

DATE OF ACTION: 13 May 1969

 Approved

12. COMPLETE ONE: ☐ DISBURSING OFFICER NOTIFIED Date: ☒ PAY STATUS NOT AFFECTED

EMBOSSSED PLATE IMPRESSION

PPC 2-77 (E-377)

MANTON Terry F. 260-74-2639 2378942

NAME (Last) (First) (Middle) SERVICE NO.

MAYVC 118(13)-PD (REV. 10-62)
 SUPERSEDES 11-55 EDITION
 WHICH MAY BE USED

13. SIGNATURE
O. L. BUNGARNER

14. RANK
1stLt

15. TITLE AND ORGANIZATION
AdminO, By direction, VMFA-451, MAG-31 2dMAW, FMFLant, MCAS, Beaufort, S.C.

(Signed copy to Commandant of the Marine Corps (Code DK))

U.S. GOVERNMENT PRINTING OFFICE : 1962 OF - 665389

Exhibit
Exhibit 2

ATTESTING CERTIFICATE

A TRUE COPY of the original on file in the office of

VMFA-451, MAG-31, 2dMAW, FMFLant, MCAS, Beaufort, S. C. 29902
(Name of command where the record is filed)

O. L. Bumgarner
Signature of officer having official
custody of record

1stLt. O. L. BUMGARNER, Admin0
Grade and Title

5 August 1969

Date certificate executed
87-69, 93-69, 111-69 AND 143-69

EXTRACTED ENTRIES FROM UNIT DIARY'S			
MANION	TF	2378942	TO UA 0730 FR UA 1030/HIST: MIS MOVEMENT
MANION	TF	2378942	690512 TO UA 0731/HIST: ABS WITHOUT LIBERTY
MANION	TF	2378942	DROP DCLDES AS OF 0731 ON 690512/HIST: SR RET
MANION	TF	2378942	FR DES DU/STRCAT O/BILMOS 6511/690731 FR UA 0805/HIST: PVT TERRY FRANK MANION 6511 USMC FR DES AND UA {AWOL} WHEN SUR R AT COMD AND RESTRICTED ATL SPCM
UNIT DIARY 149-69			
MANION	TF	2378942	690808 TO UA 1301/HIST: ABS WITHOUT LIBERTY
UNIT DIARY 153-69			
MANION	TF	2378942	CORR {143-69-01} JD FR DES DU
UNIT DIARY 169-69			
MANION	TF	2378942	690907 DROP DCLDES AS OF 1301 690808/ HIST: SR RET
UNIT DIARY 031-70			
MANION	TF	2378942	JOIN FR DES DU/STRCAT O/BILMOS 6511/ FR UA 1235/HIST: PFC TERRY F MANION 6511 USMC FR DES AND UA {AWOL} WHEN APRND BY FBI DEL UNDER GD AND RESTRICT ED ATL SPCM

Exhibit 3

HEADQUARTERS
Marine Aircraft Group 31, 2dMAW, FMFLant
MCAS, Beaufort, South Carolina 29902

17:LMP:jdh
5830
18 Feb 1970

From: Commanding Officer
To: Major W. P. FINNEGAN, 08 32 74, U. S. Marine Corps,
Marine Air Base Squadron 31, Marine Aircraft Group 31,
Marine Corps Air Station, Beaufort, South Carolina

Subj: Investigation to inquire into the circumstances surround-
ing the alleged violations of Article 87, 86, and 85 of
the Uniform Code of Military Justice; case of Private
Terry F. MANION, 237 89 42, U. S. Marine Corps

Ref: (a) Article 32, UCMJ
(b) Paragraph 34, MCM 1969
(c) WgO P5800.3A

Encl: (1) Charge Sheet on Pvt. T. F. MANION, USMC

1. You are appointed to conduct a thorough, formal, and impartial investigation in accordance with the provisions of references (a), (b), and (c) on 18 February 1970 or as soon thereafter as practicable, for the purpose of inquiring into all circumstances connected with the alleged offenses on page 2 of enclosure (1).

2. You are directed to submit your investigation by 6 March 1970, complete with findings, opinions, and recommendations. In the event an extension of time becomes necessary, such request for extension shall be in writing.



J. T. CLINE
By direction

Exhibit 4

HEADQUARTERS
Marine Air Base Squadron 31
Marine Aircraft Group 31, 2dMAW, FMFLant
MCAS, Beaufort, South Carolina 29902

3 March 1970

From: Major W. P. Finnegan Jr., 083274 USMC
To: Commanding Officer

Subj: Extension of time in Article 32 Investigation; request for

Ref: (a) CO, MAG-31, Appointing Order 17:IMP:jdh over 5830 of 18 Feb 1970.

1. In accordance with reference (a) an investigation was commenced to inquire into the circumstances surrounding the violations noted in reference (a).

2. Upon returning from TAD at Little Creek, Va. and receiving my appointing order on 23 Feb. 1970 I learned that the appointed Defense council, Capt R.A. Del Bello, had departed on leave.

3. Capt R. A. Del Bello, the appointed defense council returns from leave on 3 March 1970.

4. The subject of the investigation is presently being confined at the brig at Cherry Point, N.C. and arrangements will have to be made both for transportation and for a court recorder - should it be more expedient to hold the formal proceedings in Cherry Point rather than transporting the accused to Beaufort, S.C. - all of which will have to be delayed until the Defense council returns from leave.

5. For this reason, it is requested that I be granted an extension of time including such time as I receive this correspondence and five days thereafter.

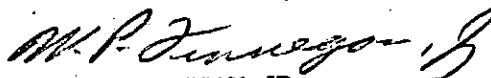

W. P. FINNEGAN JR.

Exhibit 5

17:JDH:jdh
5830
3 March 1970

FIRST ENDORSEMENT on Major FINNEGAN's ltr of 3 March 1970

From: Commanding Officer, Marine Aircraft Group 31
To: Major W. P. FINNEGAN Jr., 08 32 74, USMC

Subj: Extension of time in Article 32 Investigation; request
for

1. Returned, request approved.

2. Effective this date you are granted an extension of seven (7) days for the completion of the subject investigation. You will submit the subject investigation to this Headquarters by 10 March 1970.


V. J. PEEBLES

Exhibit 6

CWO 2

W. W. FRAUMAN III, 098 680, USMC.

In November 1968 I was assigned to MAG 31st as VMFA 457's ordinance officer. In the first part of May 457 was going to Yuma on deployment.

To move the personnel each man was assigned by manifest to a particular aircraft. Each man initialled his name on the manifest and was also told what aircraft he was on by his NCOIC.

On the particular day we deployed I was Marion's OIC and became aware of him because after the planes left I saw Marion on board the air station at approximately 200 yards from the main gate walking towards the station.

As I recall I personally spoke to the whole shop regarding time and place of the movement. I didn't tell Marion personally to make the movement.

Walter W. Frauman III

VMFA-451, MAG-31
 MAG, FLEET, NCAS
 LAUFORT, SOUTH CAROLINA 29902

TO
 COMMANDING GENERAL
 MARINE CORPS BASE
 CHAMPAGNE, ILLINOIS 61820 (DPI 2)
 CERTIFIED TO BE
 A TRUE COPY

BY CERTIFIED COPY HEREOF, THE DISBURSING OFFICER IS AUTHORIZED AND DIRECTED TO ADJUST, AS INDICATED, THE
 PAY RECORDS OF THE INDIVIDUALS LISTED BELOW.

NAME			REMARKS
		GROUP 1	ROSTER TO TAD 1000 NONEXCESS
		GROUP 2	ROSTER TO TAD 1000 NONEXCESS SUSPEND CONRATS 1000
KOLECKI	SU	2375017	FR TAD 0700
FRAUNH III	SU	0078600	ON LV 690420 TO 690505 (001)
MUHLENFORTH JR	LS	2191566	RELACDU COFG DIR CMC TR MCR ASG MCC 023 RE 1/LV 27-0 DAS LSL SUETT HIST:AUTH HARCORSEPHAN 2012.1A & MCO 1900.2F & MCEUL 1900 DTG 690206 PHA 30 LATHROP AVE BATTLE CREEK MICH 49017 EAS 691101
PETERSEN	RE	2258099	690502 HIST:MJP AND 690502 14 DAS RESTR RED TO LCPL SUSPENDED FOR 03 MO
GRANT	RV	2300624	EXEMPT FOR TAX 02 HIST:04 ATT DISB COPY TO TAD 1000 NONEXCESS SUSPEND CONRATS 1000
JOLLIFF	JD	2131242	EXEMPT FOR TAX 02 HIST:04 ATT DISB COPY
HAGEMAN	TC	2326068	690501 ATT TERM 0730
* MANION	TF	2378942	TO UA 0730 FR UA 1030 HIST:MIS MOVEMENT
ADEES	WE	2250178	HIST:CORR (076-69) NAME ADEES WE
MCCARTHY	GJ	2305877	HIST:CORR (078-69) NAME MCCARTHY GJ
CECKA	RJ	0102499	HIST:CORR (078-69) MSN 0102499
HALSTEAD	JU	2300525	HIST:CORR (078-69) MSN 2300525

DIARY NO. 037-69 DATE 690505 PAGE 1 OF 2 PAGES

UNIT COPY

Exhibit 8

UNIT
VFA-451, MAG-31
MCAS
AUFORT, SOUTH CAROLINA 29702

TO
COMMANDING GENERAL
MARINE CORPS BASE
CAMP LEVENE, NC 28542 (DPY 2)
CERTIFIED TO BE
A TRUE COPY

BY CERTIFIED COPY HEREOF, THE DISBURSING OFFICER IS AUTHORIZED AND DIRECTED TO ADJUST, AS INDICATED, THE
PAY RECORDS OF THE INDIVIDUALS LISTED BELOW.

NAME			REMARKS
SCROGGINS	CA	2346617	HIST: CORR (070-69) NSN 2346617
HEIST	KL	2137793	HIST: CORR (071-69) NSN 2137793
WASHINGTON	JA	2300871	CORR (084-69-01) 690418 TO 690430 (13)
ROGERS	NI	0105005	CORR (085-69) HIST: ECORR TO GROUP 1 NAME ROGERS NI
THOMAS JR	ND	2312215	SFNP: CORR (UD OTHER RU) (EAS 700530) (EOS 720530) (EAS 700531) (EOS 720531)
CERTIFIED TO BE CORRECT			SFNP: JOINED ASD CHG NC TOTAL ATT
L. BUNGARNER, 1STLT USMC ADMINO BY DIRECTION OF THE COMMANDING OFFICER			MAR OFF 47 29 15 43 1 MAR ENL 336 317 34 351 4 OTHER OFF 1 2 0 2 OTHER ENL 1 0 0 0 TOTAL 385 348 49 396 632

LIBRARY NO.

007-69

DATE

690505

PAGE

2

OF

2

PAGES

UNIT COPY

SQUADRON 451 RDC 11451
PMS-31, EDNAU, DELANT
MCAS, BEAUFORT, C
21912

MARINE CORPS BASE
BOX 17
CAMP LEJEUNE C 20542 1DPI 21

GROUP 1
MARINE OFFICERS

CERTIFIED TO BE
A TRUE COPY

ALORIGHT JR
KODALCZYK

JK
ES

079167
075409

MARINE ENLISTED

*ANDERAS II P
conf *BAKER VP
*BARTHEL JH
*BAUER CL
*BLUE JB
*BREIGHT RG
*BROWN HA
*CHERNAUCKAS RG
*CREECH JW
*CYR DU
*DANIELSON RJ
*DAVIDSON BA
*DAVIS JC
*DIAZ GV
*DILLON DD
*DODGE ER
*DREYER JG
*FARRELL TT
*GARCIA AT
*GEARHART DA
*GRIEDISCH DR
conf *HACKER NG
*HARRIS RL
*HENRY RD
*HERST RJ
*HEJITT HC
*HOOVER RD
*HUBBELL LH
*HUDLEONS RJ
*HUGHES FA
*JACKSON JS
*JENSEN CP
*JOYNER CA
*KEATING JT
*KEMP WF
*KING JA
*KUPETZ SC
*LALLICATA JR JJ
*MARKUS LD
*MCKINNEY NG
*MILLER JW
conf *MORGAN BE
*MORSE GL

2311774
1305787
2269574
2366090
2223365
2240334
2426632
2305936
2397271
2446756
2163443
2357245
2208462
2230836
2377620
2249597
2206560
2391560
2313415
2203187
2300936
2425237
2452144
2433830
2434136
2392726
2430944
2346209
2256610
2420664
2377991
2436906
2336244
2162430
2271649
2209325
2336252
2351436
2380923
2329045
2190046
2407699
2224023

ATT

ATT

ATT

ATT

ATT

ATT

ATT

ATT

ATT

ATT

UNIT DIARY 007-69
PAGE 1 OF 2 PAGES

Exhibit 9

MARINE FIGHTER/ATTACK
SQUADRON 453, RFC 01451
MAG-31, BUNAO, FMFLANT
P.O. BOX 17, BEAUFORT, S C

COMMANDING GENERAL
MARINE CORPS BASE
BOX 17
CAMP LEJEUNE, NC 28542

GROUP 1
MARINE ENLISTED

X MURPHY	OR	2335589
X PEEULES	DI	2320022
X PIERCE	ER	2334020
X POSPICAL	OR	2410170
X RATHIE	DR	2443757
X REISER	CC	2440486
X REYNOLDS	HS	2393074
X RHODES JR	RE	2263597
X ROLL	JH	2422045
X SADUSKY JR	SH	2339302
X SEATON	DJ	2302169
X SEELEY	DJ	2391501
X SELF	DJ	2304936
CONF SEJELL JR	KJ	2254626
X SMITH	EC	2312150
X SPANGLER	R	2263225
CONF SPEARMAN JR	JT	2420361
X SZALCINSKI	RS	2227683
X TAYLOR	E	2345426
X TELLIER	RA	2370222
X TERRY	DR	2137247
CONF THOMAS JR	JO	2312215
X THURSDY	HC	2263222
X TOTH	HA	2367315
X TREPEL	KR	2363913
X WALKER	JO	2409313
CONF WALTER	LH	2403226
CONF WALKER	SJ	2133002
X WEDDLE	DR	2211360
X WELLS	RS	2400693
X WELSH	AL	2366041
X WIGGIN	WH	2320436
X WILLIAMS	DE	2425597
CONF WILSON	JS	2250732
X WITTSHECK	JC	2377274
X WOLF	HH	2465932

ATT
ATT

ATT

NAVY OFFICERS

BRITT JC
UNIT DIARY 007-69
PAGE 2 OF 2 PAGES

690961

CERTIFIED TO BE
A TRUE COPY

MARINE FIGHTER/ATTACK
SQUADRON 423 RUC 01451
MAG-31, 2DNAD, FMFLANT,
MCAS, BEAUFORT, S C
29902

COMMANDING GENERAL
MARINE CORPS BASE
30X 17
CAMP LEJEUNE, NC 28542

GROUP 2
MARINE ENLISTED

XABNERTHY	CR	1656091
X BENTON	TP	2306194
X BOND	JL	2455749
X BONNER	JJ	2437063
X BROCKS	TR	2377211
X BROUN	JJ	1313967
XBYELICK	JF	2190866
X GIBSON	WE	2179846
X GREGOROVIC	SJ	2396531
X HASTINGS	MD	2236381
X HOLLINGSWORTH	RL	2353701
X JENKINS	DC	1394940
X LAFIURA	VJ	1842099
X MCELHANEY JR	JL	2172006
X MINIUTTI	JB	1972189
X PERRY	JH	1102620
X ROSE	LA	2441183
X RYAN	LE	1345731
X SHIVLER	TR	1936552
X SPERRY	AD	1180633
X SOUTH	RM	2173256
X SOWARDS	JP	2365050
X STAS	SJ	2149336
X VIRDEN	TE	2137785
X WALDHAUER	KE	1476256
X WOODWORTH	WD	2358182
X WYATT	RR	2305826
X YOUNGBLOOD	DJ	2454496

ATT

ATT

UNIT DIARY 087-64
PAGE 1 OF 1 PAGES

VERBATIM

RECORD OF TRIAL

(Proper)

of

UNION, Terry F.
(Last name, first name, middle initial)

237 89 47
(Service number)

Private E-1
(Rank or grade)

VF-451, NAS-51

Marine Corps Air Station

U. S. Marine Corps
(Organization and armed force)

DaNang, South Vietnam 29902
(Station or ship)

By

COURT-MARTIAL

GENERAL

Appointed by

COMMANDER GENERAL
(Title of convening authority)

2d Marine Aircraft Wing, FWP, AVIATION
(Command or convening authority)

Tried at

MCAS, Cherry Point, N. C.
(Place or places of trial)

on **21 April** 19**70**
(Date or dates of trial)

INDEX	RECORD
Introduction of counsel.....	R-.....
Challenges.....	R-.....
Arraignment.....	R-.....
Motions.....	R-.....
Pleas.....	R-.....
Instructions on findings.....	R-.....
Findings.....	R-.....
Sentence.....	R-.....
Proceedings in revision.....	R-.....

TESTIMONY

NAME OF WITNESS	Direct and Redirect	Cross and Recross	Court
PROSECUTION			
CWO-2 W.J. FRASER, III, USMC	9-10 13-14	11-12 14-15	15, 16
DEFENSE			
Pvt. T. F. UNION (Accused) CWO-2 W.J. FRASER, III, USMC	17-18 20	19-20 20	None None
COURT			
None			

EXHIBITS ADMITTED IN EVIDENCE

[illegible]

COPIES OF RECORD ¹

1 copy of record furnished the accused as per attached certificate or receipt.
2 copy(ies) of record forwarded herewith.

RECEIPT FOR COPY OF RECORD ²

I hereby acknowledge receipt of a copy of the above-described record of trial, delivered to me at this day of, 19.....

TERRY F. MANION
.....
(Signature of accused)

I hereby acknowledge receipt of a copy of the above-described record of trial, delivered to me at _____ this _____ day of _____, 19____.

(Signature of accused)

CERTIFICATE IN LIEU OF RECEIPT

_____, _____, 19____
(Place) (Date)

I certify that on this date delivery of a copy of the above-described record of trial, including all exhibits admitted in evidence or descriptions thereof, was made to the accused,

....., at
 (Name of accused) (Place of delivery)
 by, and that the
 (Means of effecting delivery, i. e., mail, messenger, etc.)

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)

¹ For instructions as to preparation of copies of record, see back cover or appendix 9f, MCM, 1951.

²If copy of record prepared for accused contains matters requiring security protection, see paragraph 82g, MCM, 1951.

2d Marine
Marine Corps

HEADQUARTERS
1st Air Force, FMF, Atlantic
Station, Cherry Point, N. C. 28533

United States of America

Request for Trial Before
Military Judge Alone (Art 16,
UCMJ)

Port Henry F. H.
v.

I have been informed

military judge detailed
prosecutions pending against
with my defense counsel,
military judge alone. I
to be tried by a court-martial
(enlisted personnel).

20 April
(dated)

Prior to the signing
accused of his right to
officers (and of his right
enlisted members not of

20 April
(dated)

Argument is (not) requested

I approve (disapprove)

21 April, 19
(dated)

Capt Chapman, USal is the
(name and rank of military judge)
court-martial to which the charges and speci-
fications have been referred for trial. After consulting
with my defense counsel, I request that the court be composed of the
military judge alone. I make this request with full knowledge of my right
to be tried by a court-martial composed of (commissioned) officers (and en-
listed personnel).

Terry F. Morrison
Accused

Foregoing request, I advised fully the above
accused of his right to be tried before a court-martial composed of (commissioned)
officers (and of his right to be tried by a court-martial composed of at least one-third
enlisted members not of his branch upon his request).

J. DeMichael, Capt USMC
Defense Counsel

J. Proctor, Capt USMC
Trial Counsel

Foregoing request for trial before me alone.

James F. Chapman
Military Judge

HEADQUARTERS
2d Marine Aircraft Wing, FMF, Atlantic
Marine Corps Air Station, Cherry Point, N. C. 28533

17/EEF:jln
5814
Ser: 1-70
12 MAR 1970

From: Commanding General
To: Colonel John E. HANSEN, U. S. Marine Corps, Marine Wing Headquarters Group 2, 2d Marine Aircraft Wing, FMFLant

Subj: Convening order for a general court-martial

Ref: (a) Article 22, UCMJ

1. Pursuant to the authority vested in me by reference (a), a general court-martial is hereby convened. It may proceed at Marine Corps Air Station, Cherry Point, North Carolina, to try such persons as may properly be brought before it. The court will be constituted as follows:

MILITARY JUDGE

Captain James F. CHAPMAN, U. S. Naval Reserve, certified, designated and assigned in accordance with Article 26(b) and (c), and previously sworn in accordance with Article 42(a).

MEMBERS

Colonel John E. HANSEN, U. S. Marine Corps	(MWHG-2)
Lieutenant Colonel Dan C. ALEXANDER, U. S. Marine Corps	(MCCRTC-20)
Lieutenant Colonel Paul F. MELCHER, U. S. Marine Corps	(MWHG-2)
Major Milton T. HESTY, U. S. Marine Corps	(MWSC-27)
Major Terrance P. BAKER, U. S. Marine Corps	(MAC-14)
Major Charles M. DOYLE, U. S. Marine Corps	(MAC-14)
Major Billy R. BRIDGEWATER, U. S. Marine Corps	(MWSC-27)
Major Thomas E. LEWIS, U. S. Marine Corps	(MCCRTC-20)
Captain Vincent A. SPALDING, U. S. Marine Corps	(MACG-28)

COUNSEL

Captain John P. PROCTOR, U. S. Marine Corps Reserve, TRIAL COUNSEL certified in accordance with Article 27(b) and previously sworn in accordance with Article 42(a).

Captain Leonard W. BELTER, U. S. Marine Corps Reserve, and Captain Joseph J. DeMICHAEL, U. S. Marine Corps Reserve, DEFENSE COUNSEL, both certified in accordance with Article 27(b) and previously sworn in

17/EBF:jln
5814
Ser: 1-70

accordance with Article 42(a), any one or both of whom may serve as defense counsel.

Captain Phillip R. WEST, U. S. Marine Corps Reserve, certified in accordance with Article 27(b) and previously sworn in accordance with Article 42(a), DEFENSE COUNSEL for the cases of U. S. v. Private Daniel M. PERRY, U. S. Marine Corps, and Private First Class Bradley R. ENTRESS, U. S. Marine Corps, only.

2. All cases in the hands of the trial counsel of the general court-martial convened by my convening order serial 12-69 dated 24 October 1969, as modified, in which trial proceedings have not begun or in which the accused has not requested trial by the military judge alone, will be brought to trial before the court hereby convened.

/s/ M. E. Carl
M. E. CARL
Major General, U. S. Marine Corps
Commanding, 2d Marine Aircraft Wing

Copy to:

Each individual
CO, MWHG-2
CO, MCCRTG-20
CO, MAG-14
CO, MWSG-27
CO, MACG-28

HEADQUARTERS
2d Marine Aircraft Wing, FMF, Atlantic
Marine Corps Air Station, Cherry Point, N. C. 28533

17/EBF:omh
5814
Ser: 1A-70
30 MAR 1970

From: Commanding General
To: Colonel John E. HANSEN, U. S. Marine Corps, Marine Wing Headquarters Group 2, 2d Marine Aircraft Wing, FMF, Atlantic
Subj: Convening order for general court-martial serial 1-70, modification of

1. Lieutenant Harold L. STOLLER Jr., U. S. Naval Reserve, certified in accordance with Article 27(b), Uniform Code of Military Justice, and previously sworn in accordance with Article 42(a), Uniform Code of Military Justice, is hereby appointed as DEFENSE COUNSEL of the subject general court-martial.

/s/M. E. Carl
M. E. CARL
Major General, U. S. Marine Corps
Commanding, 2d Marine Aircraft Wing

Copy to:
Each individual
CO, MWHG-2
CO, MCCRTG-20
CO, MAG-14
CO, MWSG-27
CO, MACG-28

PROCEEDINGS OF A **GENERAL** COURT-MARTIAL

which met (at) (~~on board~~) **XXXXXX MCAS, Cherry Point, N. C.**, at **0905** hours,

21 April 19**70**, pursuant to the following orders: ¹

¹ Here insert a literal copy of the orders appointing the court and copies of any amending orders. Any request of an enlisted accused for enlisted court members will be inserted immediately following the appointing orders, together with any declaration of the nonavailability of such enlisted persons.

MJ: This Article 39(a) Session in the case of United States versus Private Terry F. MANION will come to order.

NOTE: The Article 39(a) Session was called to order at 0905 hours, 21 April 1970.

TC: This court is convened by Major General M. E. CARL's convening order, Serial 1-70 dated the 12th day of March 1970 as amended by convening order Serial 1A-70 dated the 30th day of March 1970. A copy of which has been furnished to the Military Judge, counsel and the accused and to the reporter for insertion at this point in the record. The charges have been properly referred to this court for trial and was served on the accused by me, Captain PROCTOR, on the 10th day of April 1970. The following persons named in the convening orders are present:

Captain James F. CHAPMAN, USNR, MILITARY JUDGE;
Captain J. P. PROCTOR, USMC, TRIAL COUNSEL; and
Captain Joseph J. DEMICHAEL, USMC, DEFENSE COUNSEL.

TC: The members and the following persons named in the convening orders are absent: Defense Counsels, Captain Leonard W. BELTER, USMC and Lieutenant H. L. STOLLER, Jr., USNR.

TC: The prosecution is now ready to proceed with the trial in the case of United States against Private Terry F. MANION, U. S. Marine Corps, a member of Marine Fighter/Attack Squadron 451, Marine Aircraft Group 31, 2d Marine Aircraft Wing, Fleet Marine Force, Atlantic, Marine Corps Air Station, Beaufort, South Carolina, who is present in court. Staff Sergeant KNIGHT has been detailed reporter for this court and will now be sworn.

NOTE: The reporter, Staff Sergeant Chester E. KNIGHT, USMC, was sworn.

TC: The legal qualifications and status as to oath of the member of the prosecution are correctly stated in the convening order. No member of the prosecution named in the convening orders has acted as investigating officer, Military Judge, court member or member of the defense in this case or as counsel for the accused at a pretrial investigation or other proceedings involving the same general matter.

MJ: Captain DEMICHAEL, have you informed the accused of his rights concerning counsel as set forth in Article 38(b) of the Uniform Code of Military Justice?

DC: I have, Your Honor.

MJ: MANION, you have the right to be represented at this trial by a civilian lawyer provided by you at your own expense. Do you understand this?

ACC: Yes, Your Honor.

MJ: You also have the right to be represented free of charge by military counsel of your own selection if he is reasonably available. Do you understand this?

ACC: Yes, Your Honor.

MJ: And if you are represented by either civilian lawyer or military counsel of your own selection, Captain DEMICHAEL will continue to represent you as your appointed counsel if you wish or if you prefer, he will be excused. Do you understand this?

ACC: Yes, Your Honor.

MJ: Do you also understand that you have a right to have the other appointed members of the defense present at this trial namely Captain Leonard W. BELTER and Lieutenant Harold STOLLER?

ACC: Yes, Your Honor.

MJ: Do you expressly waive their presence at this trial?

ACC: Yes, Your Honor.

MJ: Very well. By whom will the accused be defended?

DC: Your Honor, the accused will be defended by Captain Joseph J. DEMICHAEL, U. S. Marine Corps Reserve.

TC: Will counsel representing the accused state whether his legal qualifications are other than as stated in the convening orders?

DC: They are not.

TC: Has any member of the defense acted as the accuser, a member of the prosecution, investigating officer, Military Judge or a member of the court in this case?

DC: He has not.

MJ: It appears that counsel for both sides have the requisite qualifications. Personnel of the court will be sworn.

NOTE: The Military Judge, trial and defense counsel were sworn.

TC: The general nature of the charges in this case are as follows: Charge I is a violation of the Uniform Code of Military Justice, Article 87: In that Private Terry F. MANION, U. S. Marine Corps, did, at Marine Corps Air Station, Beaufort, South Carolina, on or about 5 May 1969, through neglect, miss the movement of flight one, Yuma Deployment, with which he was required in the course of duty to move. Charge II is a violation of the Uniform Code of Military Justice, Article 86: In that Private Terry F. MANION, U. S. Marine Corps, did, on or about 12 May 1969, without authority, absent himself from his organization and did remain so absent until on or about 31 July 1969. Additional Charge I is a violation of the Uniform Code of Military Justice, Article 86: In that Private Terry F. MANION, U. S. Marine Corps, did, on or about 8 August 1969, without authority, absent himself from his unit and did remain so absent until he was apprehended on or about 26 January 1970. The charges were preferred by Staff Sergeant J. ONTIVEROS and forwarded with recommendations as to disposition by Colonel V. J. PEEBLES and investigated by Major W. P. FINNEGAN. The Military Judge will not be a witness for the prosecution. If the Military Judge is aware of any matters which he believes may be a grounds for challenge by either side against him he should not state such matters.

MJ: I know of no such matters.

TC: The prosecution has no challenges for cause against the Military Judge. Does the accused desire to challenge the Military Judge for cause?

DC: The accused does not.

MJ: I have before me a request for trial before Military Judge alone, signed by the accused and witnessed by counsel for both sides. Captain DEMICHAEL, have you discussed fully with the accused his right to and implications of trial before Military Judge, alone?

DC: Yes, I have.

MJ: And have you delineated for him the differences between a court-martial with members and one composed of Military Judge, alone?

DC: Yes, I have.

MJ: Private MANION, have you discussed the right to and the meaning of trial by Military Judge, alone, with your counsel?

ACC: Yes, Your Honor.

MJ: Are you satisfied that you understand what it means?

ACC: Yes, Your Honor.

MJ: Do you have any questions about what you discussed with your counsel in this respect?

ACC: No, Your Honor.

MJ: And do you understand that you may be tried by a court consisting of at least five officers or request to be tried before Military Judge, alone?

ACC: Yes, Your Honor.

MJ: Has it been explained to you that on your request at least one-third of a court consisting of members will be enlisted men?

ACC: Yes, Your Honor.

MJ: Do you realize that in a trial before members, two-thirds of the members voting by secret written ballot, must concur in all findings of guilt?

ACC: Yes, Your Honor.

MJ: Do you also understand that two-thirds of the members, voting by secret written ballot, must concur in the sentence should you be found guilty?

ACC: Yes, Your Honor.

MJ: Now, in a trial before me alone, do you understand that I alone will determine your guilt or innocence?

ACC: Yes, Your Honor.

MJ: And do you also understand that I alone will sentence you should you be found guilty?

ACC: Yes, Your Honor.

MJ: Knowing and understanding the differences between trial before members and trial before me, alone, as explained by your defense counsel and by me, do you still wish to be tried before me, alone?

ACC: Yes, Your Honor.

MI: Very well. The request for trial before Military Judge alone is approved and the court is now assembled. The written request for trial before Military Judge alone will be appended to the convening orders and made part of the record of trial in this case.

MI: Mister Trial Counsel, you may arraign the accused.

TR: All parties to the trial have been furnished with a copy of the charges. Does the accused desire that they be read?

SS: The accused does not.

MI: The reading of the charges may be omitted.

CHARGE SHEET

PLACE Marine Fighter/Attack Squadron 451, Marine Aircraft Group 31, Marine Corps Air Station, Beaufort, S. C.		DATE 7 May 1969
ACCUSED (Last name, First name, Middle initial) (List aliases when material) MANION, Terry F.	SERVICE NUMBER 2378942	GRADE OR RANK Pvt AND PAY GRADE E-1
ORGANIZATION AND ARMED FORCE (If the accused is not a member of any armed force, state other appropriate description showing that he is subject to military law) VMFA-451, MAG-31, 2dMAW, FMFLant Marine Corps Air Station, Beaufort, South Carolina 29902 U. S. Marine Corps	DATE OF BIRTH 2 January 1946	PAY PER MONTH
	CONTRIBUTION TO FAMILY OR QUARTERS ALLOWANCE (MCM, 126h (2)) None	BASIC \$ 109.50
		SEA OR FOREIGN DUTY \$
		TOTAL \$ 109.50

RECORD OF SERVICE

INITIAL DATE OF CURRENT SERVICE	TERM OF CURRENT SERVICE
16 October 1967	4 years
PRIOR SERVICE: 02 08 (As to each prior period of service, give inclusive dates of service and Armed Force, if available.) YEARS MONTHS DAYS	
67 08 08 - 67 10 15 USMCR (J)	

DATA AS TO WITNESSES

DATA AS TO WITNESSES
(Summary Court Officer will line out and insert names as applicable (MCM, 79g) and initial changes)

NAME OF WITNESS	ADDRESS	WITNESSES FOR	
		PROSECUTION	ACCUSED

DOCUMENTS AND OBJECTS

LIST AND DESCRIBE (If not attached to charges, note where it may be found)

DATA AS TO RESTRAINT

NATURE OF ANY RESTRAINT OF ACCUSED	DATE	LOCATION
Restricted	5May69-12May69	VMFA-451, MCAS, Beaufort, S.C.
<i>Confidential</i>	31Jul69-pres 26Jan70-11Feb70 17Feb70-13Feb70	8Aug69 1st McPherson 1st McPherson, S.C. 1st McPherson, S.C.

Charge : Violation of the Uniform Code of Military Justice, Article 87.

Specification: In that Private Terry F. Manion, U. S. Marine Corps, Marine Fighter/Attack Squadron Four Fifty-One, Marine Aircraft Group Thirty-One, Second Marine Air Wing, Fleet Marine Force Atlantic, Marine Corps Air Station, Beaufort, South Carolina, did, at Marine Corps Air Station, Beaufort, South Carolina, on or about 5 May 1969, through neglect, miss the movement of flight one, Yuma Deployment, with which he was required in the course of duty to move.

Additional Charge: Violation of the Uniform Code of Military Justice, Article 86

Specification: In that Private Terry F. MANION, U. S. Marine Corps, Marine Fighter Attack Squadron 451, Marine Aircraft Group 31, 2d Marine Aircraft Wing, Fleet Marine Force, Atlantic, Marine Corps Air Station, Beaufort, South Carolina, did, on or about 0731, 12 May 1969, without authority, absent himself from his organization, to wit: Marine Fighter Attack Squadron 451, Marine Aircraft Group 31, located at Marine Corps Air Station, Beaufort, South Carolina, and did remain so absent until on or about 0805, 31 July 1969.

Additional Charge II: Violation of the Uniform Code of Military Justice, Article 85

Specification: In that Private Terry F. MANION, U. S. Marine Corps, Marine Fighter/Attack Squadron 451, Marine Aircraft Group 31, 2d Marine Aircraft Wing, Fleet Marine Force, Atlantic, Marine Corps Air Station, Beaufort, South Carolina did, on or about 1301 hours, 8 August 1969, without authority and with intent to remain away therefrom permanently, absent himself from his unit, to wit: Marine Fighter/Attack Squadron 451, Marine Aircraft Group 31, 2d Marine Aircraft Wing, Fleet Marine Force, Atlantic, located at Marine Corps Air Station, Beaufort, South Carolina, and did remain so absent in desertion until he was apprehended on or about 2240 hours, 26 January 1970.

NAME, GRADE, AND ORGANIZATION OF ACCUSER

J. ORTIVERO, SSgt, VMFA-451, MAG-31, 20MAW,
FMFLant, MCAS, Beaufort, S. C. 29902

SIGNATURE

J. Ortivero

AFFIDAVIT

Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above-named accuser this 12th day of February, 1970, and signed the foregoing charges and specifications under oath that he is a person subject to the Uniform Code of Military Justice, and that he either has personal knowledge of or has investigated the matters set forth therein, and that the same are true in fact, to the best of his knowledge and belief.

VMFA-451, MAG-31, 20MAW, FMFLant,
Captain, MCAS, Beaufort, S. C. 29902

GRADE AND ORGANIZATION OF OFFICER

H. A. Hill

SIGNATURE

Administrative Officer

H. A. HILL

OFFICIAL CHARACTER, AS ADJUTANT, SUMMARY COURT, ETC.
(MCM, 29g, and Article 30g and 136)

TYPED NAME

Officer administering oath must be a commissioned officer.

12 February 1970

DATE

I have this date informed the accused of the charges against him (MCM, 32f(1)).

C. U. GIBSEN, LtCol, VMFA-451, MAG-31, 20MAW,
FMFLant, MCAS, Beaufort, S. C. 29902

NAME, GRADE, AND ORGANIZATION OF IMMEDIATE COMMANDER

C. U. GIBSEN

SIGNATURE

VMFA-451, MAG-31, 20MAW, FMFLant, Marine Corps Air Station, Beaufort, S.C. 12 Feb 1970

DESIGNATION OF COMMAND OF OFFICER EXERCISING
SUMMARY COURT-MARTIAL JURISDICTION

PLACE

DATE

The sworn charges above were received at 0900 hours, this date (MCM, 33b).FOR THE
//

C. U. GIBSEN, LtCol, Commanding Officer

NAME, GRADE, AND OFFICIAL CAPACITY OF OFFICER SIGNING

C. U. GIBSEN

SIGNATURE

1ST INDORSEMENT

2d Marine Aircraft Wing, MCAS, Cherry Point, N. C. 28543

DESIGNATION OF COMMAND OF CONVENING AUTHORITY

8 April 1970

DATE

Referred for trial to the general court-martial appointed by my convening orderserial 1-70 dated 12 M12 MAR 1970, subject to the following instructions:²

None.

//

//

//

M. E. CARL, Major General, USMC, Commanding

NAME, GRADE, AND OFFICIAL CAPACITY OF OFFICER SIGNING

15/ M.E. CARL

SIGNATURE

I have served a copy hereof on each of the above-named accused, this 10th day of April,
1970.

Captain John P. Proctor HHS-2 Wyley
NAME, GRADE, AND ORGANIZATION OF TRIAL COUNSEL

13/ John P. Proctor

SIGNATURE

¹ When an appropriate commander signs personally, inapplicable words are stricken out. ² Relative to proper instructions which may be included in the indorsement of reference for trial, see MCM, 33j(1). If none, so state.

Fill in blank numbers of pertinent charges and specifications or "all specifications and charges," as may be appropriate for use unless departmental regulations prevent such election (MCM, 32(2)).

☐ THE ACCUSED HAS BEEN PERMITTED AND HAS ELECTED TO REFUSE PUNISHMENT UNDER ARTICLE 15 AS TO

☐ THE ACCUSED HAS NOT BEEN OFFERED PUNISHMENT UNDER ARTICLE 15 AS TO

NAME, GRADE, AND ORGANIZATION OF OFFICER EXERCISING ARTICLE 15 JURISDICTION

SIGNATURE

RECORD OF TRIAL BY SUMMARY COURT-MARTIAL

CASE NUMBER

(inserted by convening authority)

TO BE FILLED IN BY SUMMARY COURT AS APPLICABLE

1. WAS THE ACCUSED ADVISED IN ACCORDANCE WITH PARAGRAPH 79d, MCM, 1951? ☐ YES

When an accused has been permitted and has elected to refuse punishment under Article 15, trial by summary court-martial may proceed despite his objection.

2. THE ACCUSED, HAVING REFUSED TO CONSENT IN WRITING TO TRIAL BY SUMMARY COURT-MARTIAL AND NOT HAVING BEEN PERMITTED TO REFUSE PUNISHMENT UNDER ARTICLE 15, THE CHARGES ARE HEREWITH RETURNED TO THE CONVENING AUTHORITY.

NAME, GRADE, AND ORGANIZATION OF SUMMARY COURT OFFICER

SIGNATURE

TO BE FILLED IN BY THE ACCUSED

SIGNATURE OF ACCUSED

I ☐ CONSENT ☐ OBJECT TO TRIAL BY SUMMARY COURT-MARTIAL

SPECIFICATIONS AND CHARGES

PLEAS

FINDINGS

SENTENCE OR REMARKS

NUMBER OF PREVIOUS CONVICTIONS CONSIDERED (MCM, 75b(2))

PLACE AND DATE OF TRIAL

DATE SENTENCE ADJUDGED

NAME, GRADE, ORGANIZATION, AND ARMED FORCE OF SUMMARY COURT OFFICER (MCM, 4g)

SIGNATURE

Enter after signature, "Only officer present with command", if such is the case.

TO BE FILLED IN BY CONVENING AUTHORITY (MCM, 89, and app. 14g.)

ORGANIZATION

PLACE

DATE

ACTION OF CONVENING AUTHORITY

NAME, GRADE, AND ORGANIZATION OF CONVENING AUTHORITY

SIGNATURE

ENTERED ON APPROPRIATE PERSONNEL RECORDS IN CASE OF CONVICTION. (MCM, 91g)

NAME, GRADE, AND DESIGNATION OF OFFICER RESPONSIBLE FOR ACCUSED'S RECORDS

SIGNATURE

NOTE: Summary of evidence, if required by the convening or higher authority, will be attached on separate pages.

NAME, GRADE, AND ORGANIZATION OF ACCUSER

G. ONTIVEROS, SSgt, VMFA-451, MAG-31, 2dMAW
FMPlant, MCAS, Beaufort, South Carolina

SIGNATURE



AFFIDAVIT

Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above-named accuser this 31 day of July, 19 69, and signed the foregoing charges and specifications under oath that he is a person subject to the Uniform Code of Military Justice, and that he either has personal knowledge of or has investigated the matters set forth therein, and that the same are true in fact, to the best of his knowledge and belief.

1stLt, VMFA-451, MAG-31, 2dMAW, FMPlant
MCAS, Beaufort, South Carolina

GRADE AND ORGANIZATION OF OFFICER



SIGNATURE

Administrative Officer**O. L. BUMGARNER**

OFFICIAL CHARACTER, AS ADJUTANT, SUMMARY COURT, ETC.
 (MCM, 29g, and Article 30g and 136)

TYPED NAME

Officer administering oath must be a commissioned officer.

31 July 1969

DATE

I have this date informed the accused of the charges against him (MCM, 32f(1)).

G. U. GIBSEN, LtCol, VMFA-451, MAG-31, 2dMAW
FMPlant, MCAS, Beaufort, South Carolina

NAME, GRADE AND ORGANIZATION OF IMMEDIATE COMMANDER



SIGNATURE

NAME, GRADE, AND ORGANIZATION OF ACCUSER		SIGNATURE	
J. ONTIVEROS, Staff Sergeant, USMC VMFA-451, MAG-31, MCAS, Beaufort, S. C.		<i>[Signature]</i>	
FIDAVIT			
Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above-named accuser this _____ day of _____, 19____, and signed the foregoing charges and specifications under oath that he is a person subject to the Uniform Code of Military Justice, and that he either has personal knowledge of or has investigated the matters set forth therein, and that the same are true in fact, to the best of his knowledge and belief.			
1stLt, USMC, VMFA-451 MAG-31, MCAS, Beaufort, S. C.		<i>[Signature]</i>	
GRADE AND ORGANIZATION OF OFFICER		SIGNATURE	
Administrative Officer VMFA-451, MAG-31, MCAS, Beaufort, S. C.		O. L. BURGARTER	
OFFICIAL CHARACTER, AS ADJUTANT, SUMMARY COURT, ETC.		SIGNED NAME	
Officer administering oath must be a commissioned officer.			
		7 May 1969 DATE	
I have this date informed the accused of the charges against him (MCM, 32f(1)).			
J. R. THROCKMORTON, Major, USMC VMFA-451, MAG-31, OIC (REAR)			
NAME, GRADE, AND ORGANIZATION OF IMMEDIATE COMMANDER		SIGNATURE	
VMFA-451, MAG-31, 2dMAW, FMPlant, MCAS, Beaufort, South Carolina		31 July 1969	
DESIGNATION OF COMMAND OF OFFICER EXERCISING SUMMARY COURT-MARTIAL JURISDICTION		PLACE DATE	
The sworn charges above were received at _____ hours, this date (MCM, 33b).			
FOR THE			
C. U. GEBSEN, LtCol, Commanding Officer		<i>[Signature]</i>	
NAME, GRADE, AND OFFICIAL CAPACITY OF OFFICER SIGNING		SIGNATURE	
1ST INDORSEMENT			
MAG-31, 2dMAW, FMPlant, MCAS, Beaufort, South Carolina		8 August 1969	
DESIGNATION OF COMMAND OF CONVENING AUTHORITY		DATE	
Referred for trial to the Special court-martial appointed by my appointing order			
serial 7-69			
dated 1 August 1969, 19____, subject to the following instructions: ²			
BY: <i>[Signature]</i> OF <i>[Signature]</i>			
COMMAND OR ORDER			
V. J. PERBLES, Col, Commanding Officer			
NAME, GRADE, AND OFFICIAL CAPACITY OF OFFICER SIGNING		SIGNATURE	
I have served a copy hereof on each of the above-named accused, this _____ day of _____, 19____.			
NAME, GRADE, AND ORGANIZATION OF TRIAL COUNSEL		SIGNATURE	

^{1/} When an appropriate commander signs personally, inapplicable words are stricken out. ^{2/} Relative to proper instructions which may be included in the indorsement of reference for trial, see MCM, 33j(1). If none, so state.

Fill in blank numbers of pertinent charges and specifications or "all specifications and charges," as may be appropriate for use unless departmental regulations prevent such election (MCM, 32f(2)).

☐ THE ACCUSED HAS BEEN PERMITTED AND HAS ELECTED TO REFUSE PUNISHMENT UNDER ARTICLE 15 AS TO

☒ THE ACCUSED HAS NOT BEEN OFFERED PUNISHMENT UNDER ARTICLE 15 AS TO **the charge and its specification.**

NAME, GRADE, AND ORGANIZATION OF OFFICER EXERCISING ARTICLE 15 JURISDICTION

J. R. THROCKMORTON, Major, VMFA-451, MAG-31, 2dMAW, FMTlant, NCAS, Beaufort, South Carolina

SIGNATURE

RECORD OF TRIAL BY SUMMARY COURT-MARTIAL

CASE NUMBER

(Inserted by convening authority)

TO BE FILLED IN BY SUMMARY COURT AS APPLICABLE

1. WAS THE ACCUSED ADVISED IN ACCORDANCE WITH PARAGRAPH 79d, MCM, 1951? ☐ YES

When an accused has been permitted and has elected to refuse punishment under Article 15, trial by summary court-martial may proceed despite his objection.

2. THE ACCUSED, HAVING REFUSED TO CONSENT IN WRITING TO TRIAL BY SUMMARY COURT-MARTIAL AND NOT HAVING BEEN PERMITTED TO REFUSE PUNISHMENT UNDER ARTICLE 15, THE CHARGES ARE HEREWITH RETURNED TO THE CONVENING AUTHORITY.

NAME, GRADE, AND ORGANIZATION OF SUMMARY COURT OFFICER

SIGNATURE

TO BE FILLED IN BY THE ACCUSED

I ☐ CONSENT ☐ OBJECT TO TRIAL BY SUMMARY COURT-MARTIAL

SIGNATURE OF ACCUSED

SPECIFICATIONS AND CHARGES

PLEAS

FINDINGS

SENTENCE OR REMARKS

NUMBER OF PREVIOUS CONVICTIONS CONSIDERED (MCM, 75b(2))

PLACE AND DATE OF TRIAL

DATE SENTENCE ADJUDGED

NAME, GRADE, ORGANIZATION, AND ARMED FORCE OF SUMMARY COURT OFFICER (MCM, 4g)

SIGNATURE

Enter after signature, "Only officer present with command", if such is the case.

TO BE FILLED IN BY CONVENING AUTHORITY (MCM, 89, and app. 14g.)

ORGANIZATION

PLACE

DATE

ACTION OF CONVENING AUTHORITY

NAME, GRADE, AND ORGANIZATION OF CONVENING AUTHORITY

SIGNATURE

ENTERED ON APPROPRIATE PERSONNEL RECORDS IN CASE OF CONVICTION. (MCM, 91g)

NAME, GRADE, AND DESIGNATION OF OFFICER RESPONSIBLE FOR ACCUSED'S RECORDS

SIGNATURE

NOTE: Summary of evidence, if required by the convening or higher authority, will be attached on separate pages.

TD: The charges are signed by Staff Sergeant J. ONTIVEROS, a person subject to the Code as the accuser. They are properly sworn to before a commissioned officer of the Armed Forces authorized to administer oaths and are properly referred to this court for trial by Major General M. E. CARL, the convening authority. The charges were served on the accused by me, Captain PROCTOR, on the 10th day of April 1970.

MJ: Private Terry F. MANION, I now ask you how do you plead? But before receiving your pleas I advise you that any motion to dismiss any charge or to grant other relief should be made at this time.

DC: Your Honor, the accused has no motions to make and pleads as follows:

To the Charge and Specification of Charge I: Not Guilty.

To Additional Charge I and the Specification: Guilty.

To Additional Charge II and Specification: Guilty.

MJ: Private MANION, it is my purpose to explain fully the meaning and effect of your pleas of guilty to the two offenses of absence without leave alleged in Charge II and Additional Charge I. I suggest that you hold a copy of the charges and specifications in your hand so that you may refer to them readily during this hearing. Your pleas of guilty will not be accepted unless you understand their meaning and effect. You are legally entitled to plead not guilty even though you believe you are guilty and thus place upon the prosecution the burden of proving your guilt beyond a reasonable doubt. A plea of guilty is equivalent to a conviction and is the strongest form of proof known to the law. On your plea alone, without receiving any evidence, this court can find you guilty of the offenses to which you plead guilty. Your plea will not be accepted unless you understand its meaning and effect and unless you realize that by your plea you admit every act or omission and every element with respect to the offenses to which you plead guilty and that you are pleading guilty because you really are guilty. If you are not convinced that you are in fact guilty you should not allow any other considerations to influence you to plead guilty. Do you understand that I have just told you?

ACC: Yes, Your Honor.

MJ: And do you have any questions about that at this time?

ACC: No, Your Honor.

MJ: I am going to list the elements of the offenses to which you have pleaded guilty. These are the facts which the prosecution must prove beyond a reasonable doubt before the court could find you guilty if you should plead not guilty. As I state each of these elements, ask yourself whether it is absolutely true and whether you wish to admit that it is true and then be prepared to discuss each of these essential facts with me when I have finished. In the Specification of Charge II you are charged with the offense of absence without leave in violation of Article 86 of the Uniform Code of Military Justice. The legal elements of this offense as charged are these: That on or about 0731 hours, 12 May 1969 you absented yourself from your organization which was Marine Fighter/Attack Squadron 451, Marine Aircraft Group 31, located at Marine Corps Air Station, Beaufort, South Carolina. Do you admit this?

ACC: Yes, sir.

MJ: The second element of that offense is that your absence was without proper authority from anyone competent to give you leave. Do you admit this?

ACC: Yes, Your Honor.

MJ: And the third element of that offense is that your absence endured on or about 12 May 1969 until it was terminated on or about 0805 hours, 31 July 1969. Do you admit this?

ACC: Yes, Your Honor.

MJ: And the Specification of Additional Charge 1 you are charged with a second offense of absence without leave in violation of Article 86 of the Uniform Code of Military Justice. The legal elements of this offense as charged are these: First, that on or about 1301 hours, 8 August 1969, you absented yourself from your unit which was Marine Fighter/Attack Squadron 451, Marine Aircraft Group 31, 2d Marine Aircraft Wing, Fleet Marine Force, Atlantic, located at Marine Corps Air Station, Beaufort, South Carolina. Do you admit this?

ACC: Yes, Your Honor.

MJ: And the second element of that offense is that your absence from this unit was without proper authority from anyone competent to give you leave. Do you admit this?

ACC: Yes, Your Honor.

MJ: And the third element of that offense is that your absence from your unit endured from on or about 1301 hours, 8 August 1969 until you were apprehended on or about 2240 hours, 26 January 1970. Do you admit this?

ACC: Yes, Your Honor.

MJ: Now that I have enumerated the elements of these offenses to which you have pleaded guilty do you understand them?

ACC: Yes, Your Honor.

MJ: Do you have any questions about any of them?

ACC: No, Your Honor.

MJ: Do you understand that your pleas of guilty would admit that each of these elements accurately describes what you did?

ACC: Yes, Your Honor.

MJ: And do you believe and admit that taken together these elements correctly describe what you did?

ACC: Yes, Your Honor.

MJ: Captain DEMICHAEL, what advice have you given the accused as to the maximum punishment which could be adjudged for a conviction of these two offenses to which he has pleaded guilty?

DC: Total forfeiture of all pay and allowances, confinement at hard labor for two years and a dishonorable discharge.

MJ: Mister Trial Counsel, do you agree with that?

TC: I do, Your Honor.

MJ: Private MANION, on your pleas of guilty alone, you could lawfully be sentenced to the maximum punishment authorized. In this case the maximum punishment for the offenses to which you have pleaded guilty would be

dishonorable discharge, confinement at hard labor for two years and forfeiture of all pay and allowances. Do you have any question as to the sentence that could be imposed for a conviction of these two offenses to which you plead guilty?

ACC: No, Your Honor.

MJ: Captain DEMICHAEL, have you as defense counsel had ample time and opportunity to discuss this case with the accused?

DC: I have, Your Honor.

MJ: Private MANION, have you had ample time and opportunity to discuss this case with your defense counsel?

ACC: Yes, Your Honor.

MJ: Have you in fact consulted fully with your defense counsel and received the full benefit of his advice?

ACC: Yes, Your Honor.

MJ: Are you satisfied that your counsel's advice is to your own best interest?

ACC: Yes, Your Honor.

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

ACC: Yes, Your Honor.

MJ: Are you satisfied with your defense counsel?

ACC: Yes, Your Honor.

MJ: Has anyone made any threats or tried in any other way to force you to plead guilty?

ACC: No, Your Honor.

MJ: And you fully understand that even though you feel that you are guilty of these two offenses that you have the legal and moral right to plead not guilty and place the burden upon the government to prove your guilt by legal and competent evidence beyond a reasonable doubt?

ACC: Yes, Your Honor.

MJ: Private MANION, by your plea of guilty to these offenses you waive and by waive I mean give up certain important rights. However, you waive these rights only as to the findings of the offenses to which your plea is entered. That is, only as to the two specifications alleged in Charge II and Additional Charge I. You retain these rights as to the offense to which you plead not guilty. Do you understand what I have just told you?

ACC: Yes, Your Honor.

MJ: These rights that you give up are these. First, the right against self-incrimination. That is the right to say nothing at all. Second, the right to a trial of the facts by this court. That is, the right to have this court decide whether or not you are guilty based upon the evidence which the

prosecution will present and on any evidence you may introduce. Third, the right to be confronted by and to cross-examine any witness against you. Do you understand what these rights are?

ACC: Yes, Your Honor.

MJ: And do you further understand that by pleading guilty to these two absence offenses that you no longer have these rights as to those offenses?

ACC: Yes, Your Honor.

MJ: Very well. I find that the pleas of guilty are made voluntarily and with full knowledge of their meaning and effect. I further specifically find that the accused has knowingly, intelligently and consciously waived his right against self incrimination, to a trial of the facts by a court-martial and to be confronted by the witnesses against him. Accordingly, the pleas of guilty to the two absence offenses are provident and will be accepted.

TC: Your Honor, the prosecution has no opening statement concerning Charge 1 which is a violation of the Uniform Code of Military Justice, Article 87. Does the defense desire to make an opening statement at this point?

DC: The defense does not.

TC: Very well. The prosecution will call Warrant Officer FRAUMAN.

Chief Warrant Officer - 2 W. W. FRAUMAN, III, 098680, U. S. Marine Corps, was called as a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by the prosecution:

Q: Mr. FRAUMAN, for the record would you please state your full name?

A: William W. FRAUMAN, III.

Q: And your rank?

A: Chief Warrant Officer - 2.

Q: Your present organization?

A: HAMS-31, MAG-31, Beaufort, South Carolina.

Q: And your armed service?

A: United States Marine Corps.

Q: Do you know the accused in this case?

A: Yes, I do.

Q: Would you point to him please and state his name?

A: (Pointing to the accused) Terry MANION.

TC: Let the record reflect that the witness pointed to the accused.

Q: Mr. FRAUMAN, would you please tell this court what your assigned duties were during the first week of May 1969?

A: I was the OIC of the ordnance section of VMA-451...VMFA-451.