

Q: And what was your relation to the accused at that time?  
A: I was his OIC.

Q: And what particularly were you doing in relation to the organization?  
A: I was preparing for a deployment to Yuma.

Q: And how did you prepare your organization for this deployment?  
A: Well, we had the standard pack-up and we also had rosters come down from the embarkation section telling each man what plane he was on and what flight he was on and who his OIC was.

Q: When did you plan on deploying?  
A: We were deploying on May the 5th.

Q: And how did you publish this information to the troops?  
A: I went out about two weeks ahead of time prior to deployment and the rosters came out and one was posted in each ordnance shop or each section down there and there was also one on the master bulletin board. It was passed out by a general muster and it was passed out to each individual and signed by his name on his flight going out showing him who his NCOIC was and what time to report out.

Q: Did you personally talk to the troops concerning this deployment?  
A: Yes, I did. I held a general muster of all ordnance personnel and whether they were going to Yuma or whether they were not going to Yuma and told them what was expected of them while they were there. I emphasized on their leave.

Q: Was Private MANION present at these musters?  
A: Yes, he was.

Q: Did you have occasion to see the accused on 5 May 1969?  
A: Yes, I did.

Q: Where did you see him at?  
A: Approximately 200 feet in from the Main Gate of Beaufort, South Carolina.

Q: What time of the day was this?  
A: It was in the morning time about...I would say about nine o'clock.

Q: Under what circumstances did you see the accused?  
A: I was coming back off of leave. I had just brought my family up from Fort Lauderdale, Florida and had my wife in the car and we were going down to housing and then back over to the squadron office.

Q: What was your reaction when you saw the accused?  
A: I almost wrecked the car.

Q: Why was that?  
A: Because I expected him on the plane.

Q: Had the planes left?  
A: Yes, they had left already.

Q: What did you do after that?  
A: I continued on down to the housing area and checked in to get my house and then I went over to the squadron office.

TC: I have no further questions.

CROSS-EXAMINATION

Questions by the defense:

Q: Now what time did you see the accused on the 5th of May?

A: It was approximately about in the morning...it was between eight and nine o'clock.

Q: And where did you see him?

A: Approximately 200 feet inside the Main Gate walking toward the base.

Q: Toward the base?

A: No. He was on the base at that time and he was walking on down toward the rest of the base.

Q: How many flights were there that left that day?

A: There were supposed to be three flights leaving that day that I knew of.

Q: Excuse me. Go ahead.

A: That I knew of. Before I left on leave there were scheduled three flights going out that day. Seven planes leaving all together. Three flights on the 4th if I remember right and three flights on the 5th and one flight was leaving on...that week-end.

Q: And what times were those three flights leaving on the 5th?

A: Approximately there were scheduled to be at about...a six o'clock take off here would be 0730 down there with an hour and a half flight down there and the planes were supposed to leave at hour intervals.

Q: Excuse me. Would you start from the beginning?

A: Okay. They were supposed to leave out of Cherry Point at six o'clock in the morning and be down there...an hour and a half flight down and they would be leaving out of there at hour intervals. That would make the first plane down there at 0730.

Q: Where was the accused?

A: Pardon?

Q: Where was the accused required to be at the airplane?

A: At Beaufort.

Q: At Beaufort?

A: Right.

Q: Now you mentioned something about the planes leaving Cherry Point?

A: Yes. Well, on our flight plan we had the flights scheduled in on a message and it had the take-off time from Cherry Point and then it gives you the time of landing at Beaufort and then they load at Beaufort and take off from there to Yuma.

Q: And the accused was required to be on the flight that left from Beaufort?

A: Yes. He was required to be on a flight that left from Beaufort.

Q: And there were three flights that left that day?

A: Yes.

Q: And could you tell me the approximate times that these three flights were to leave Beaufort?

A: At approximately 0730, 0830 and then 0930.

Q: And do you know whether...what flight the accused was required to be on?  
A: No, I don't know which flight he was on.

Q: Now, were there flights leaving on the 4th of May also?  
A: Yes, if I remember right.

Q: And you say there was another flight leaving on the 6th of May?  
A: It was the 7th. There was one day in between.

Q: And do you know which of these particular flights the accused was required to be on?  
A: He was required to leave on the 5th.

Q: The entire squadron was to leave on the 5th?  
A: Part of the squadron left on the 4th the 5th and the 7th. Each man was assigned to a flight...to a particular flight.

Q: Now by what means do you know that the accused was required to leave on the flights leaving May the 5th as opposed to May the 4th and May the 7th?  
A: Well, the only ones that were leaving on the 7th which was the flight that I was on...going out on and I knew everybody that was on the flight because I was the QIC of the flight and I knew who was leaving on the 7th. I knew who was supposed to leave on the 5th. I remember this because he was listed on the roster for that date.

Q: Do you know whether there were any last minute changes to these flight plans after the assignments of flights?  
A: When I left on leave there wasn't any changes and that was approximately the 30th of April.

Q: The 30th of April, and when did you return from leave?  
A: On the 5th of May.

Q: Now you say the three flights left at 0730, 0830 and 0930?  
A: Approximately that time.

Q: Do you know whether these were the original times set for the departures when the troops were informed?

A: The troops were informed not the exact times that the planes were leaving. The accused was informed to be at a general muster at 0600 in the morning. All persons that were leaving on those days had a general muster at 0600 that morning with the NCOIC of the plane.

Q: So the accused was required to be at a 0600 muster?  
A: That is correct. On the flight line.

Q: Do you whether the accused made that muster?  
A: I do not.

Q: Now, why is it that you are not aware of which of these three flights the accused was to be present on?  
A: I don't remember which flight he was to be present on. I had 28 men and I don't remember which flight each man was on. I know that all 28 were assigned to a flight, but I don't know exactly what plane without looking at the rosters.

DC: No further questions.

### REDIRECT EXAMINATION

Questions by the prosecution:

Q: Do you know when flight one was?  
A: Pardon.

Q: Do you know what flight one was?  
A: Yes.

Q: Flight one?  
A: Yes.

Q: Had any of your personnel been excused from any of these flights?  
A: No. Not after the roster was set up. We set them up enough ahead of time to make sure we had everything down.

Q: And you said that your flight left on the 7th?  
A: Yes.

Q: On the 7th?  
A: Yes.

Q: MANION wasn't aboard that flight?  
A: He wasn't aboard that flight. He wasn't assigned that flight.

TC: I have no further questions. Does the Military Judge have any questions of this witness?

### EXAMINATION BY THE COURT

Questions by the Military Judge:

Q: Do I understand you to say that you had a muster sometime before 5 May at which the accused was present?  
A: Yes, sir.

Q: And at this muster did you specifically state the time of departure of these...of each flight?  
A: Of each flight?

Q: Of these planes on the day when the accused was to depart?  
A: Yes, sir. I did not say it myself. My NCOIC did and he did say on which day the flight was going out. I was there witnessing to that.

### REDIRECT EXAMINATION

Questions by the prosecution:

Q: How long had you been planning this deployment?  
A: Well, it was in the planning stage for approximately three months.

Q: And how long would you say your troops had knowledge of this plan to deploy?  
A: Approximately 30 days.

Q: In otherwords it wasn't a surprise?  
A: No, sir.

Q: Do you have an estimate as to how many meetings were held with the troops concerning the deployment?  
A: The estimate would be approximately five.

Q: Five?

A: The first meeting was with the staff NCO's and the sergeants and this was in the planning stage. With the rest of the troops it was approximately three or four after that.

Q: Did you have a roster that went out concerning the proposed deployment with all the troops listed?

A: Yes there was a predeployment roster passed out that was made by the squadron and they passed it out to each individual which concerned the movement down there and what was expected of them and the flight plan was not on this predeployment. The flight plans were on the...passed out on the bulletin board.

TC: I have no further questions.

#### REROSS-EXAMINATION

Questions by the defense:

Q: Just one more questions. The time that the flights left...when you say 0730, 0830 and 0930 you are speaking from a point of view from actual observation or from a point of view that they were supposed to leave at these times?

A: It was an assumption that they were supposed to leave at these times.

Q: Now isn't it possible that these flight times could have been changed?  
A: Yes it was.

Q: While you were on leave?

A: Yes.

Q: So you don't know for a fact that these were the times that the planes actually did in fact leave?

A: No, I don't know for a fact that these were the times that the planes left. The only thing that I knew for a fact is that all the planes were gone when I reported to the squadron office.

Q: Do you know for a fact that the planes actually touched down on the flight line?

A: Whether they came to the flight line I know not of the fact. I didn't see them myself.

Q: So it is entirely possible that...at least from a point of view from your own personnel knowledge that the planes actually did not arrive at your port. Is that a possibility?

A: No because all the gear was gone. All of the equipment had been loaded on the planes. All of the flights and equipment that was leaving on the first six planes was gone from the squadron area when I got there.

Q: By the time that you arrived there were no planes left?

A: That is right.

Q: Now did you see the accused personally at the muster at which they were informed as to the departures?

A: In the squadron shop. Yes, I did.

Q: And while this information was being given out?

A: Yes.

Q: And you don't know the significance of the phrase "flight one"?

A: The significance of this phrase "flight one" would be the first flight that was supposed to leave which would have been on each day. There is a

flight one, flight two and flight three and they are listed as to take off.

Q: In otherwords it is not a designation of a particular aircraft or particular flight?

A: If you are scheduled for flight one on 4 May then you would be on the first plane leaving on 4 May and the flights were listed on the top of each roster.

Q: So flight one could have left on the 7th is that correct?

A: It could have left at 0700...it could have left at 0630.

DC: I have no further questions.

#### EXAMINATION BY THE COURT

Questions by the Military Judge:

Q: Do you know for a fact whether or not these planes did come to Beaufort and then depart on the 5th of May?

A: Yes sir. I do know for a fact that they did come to Beaufort and depart on the 5th of May.

MJ: I have no further questions.

TC: I have no further questions.

DC: No further questions.

TC: We will waive the necessity of warning this witness, Your Honor.

DC: The defense consents.

MJ: Very well. The witness is excused.

The witness withdrew from the courtroom.

TC: The prosecution rest, Your Honor.

DC: The defense moves for a finding of not guilty. A few statements in support of the motion. There are just too many doubts in testimony already we don't know whether the flights touched down. Warrant Officer FRAUMAN arrived at the base after the time that the flights would have taken off so we don't know whether in fact the flights...the planes did land. We don't know what time they took off and perhaps the most important thing of all, the government has failed to sustain its burden of proof on the issue of neglect. It has not proved that he did miss the flight if in fact there was a flight and the government must also prove that he was...it was through neglect and this is another fact that must be proved beyond a reasonable doubt. We don't believe that there is any evidence in all of the evidence presented here to proceed further.

TC: Your Honor, the Manual defines neglect as omission to take such measures as are appropriate under the circumstances to assure that the man will be present at the time of the movement. Neglect really is simple negligence, Your Honor. It is the lesser of the two types of missing movement. The government maintains that it does not have to specifically prove when the accused was neglectful but rather the government must prove that the accused simply missed the movement. We have done that, Your Honor.

Additionally, the testimony of Mr. FRAUMAN is quite clear. In response to questions by not only the trial counsel but by the defense counsel and the Military Judge he said that he was sure that the three flights left on the

5th of May. He was sure that when he returned to the squadron area that the flights had left. This was shortly after he had seen the accused aboard the base. He also testified that the accused was present at various musters... five to recall his testimony, wherein the unit was informed of the prospective movement. Maybe the exact time of the movement wasn't given to these troopers but certainly the date was and the Manual again says that the exact time of the movement does not require...is not required for a missing movement but rather that the information from the general nature covering the time of the movement. Your Honor, we have shown all of these points and I feel that the motion for a finding of not guilty if without merit and it should be denied.

DC: Your Honor, what the government is attempting to do here is shift the burden of proof. Now the prosecution is saying that all we have to do is to prove that there was a flight and that he was required to be on the flight and that he missed the flight and the burden of proof then shifts to the defense. Now I can't see the validity of that. Why can't we just as easily assume that there was an accident...that it was an accident or that he had a mental relapse. There is all kinds of assumptions that don't imply neglect that can be placed upon a failure of a person to be where he is supposed to be. The prosecution is attempting to place the burden of proof of the essential element of neglect upon the defense. The prosecution has shown no evidence whatsoever that the accused was negligent.

TC: Your Honor, we would contend that that just simply isn't the state of the evidence that you have before you. We have shown that...through the testimony of Mr. FRAUMAN that the accused was seen aboard the base at roughly 0900 or 0930 in the morning of the flights. He was aboard the base. We have also shown that he had knowledge of the flight. Now, we haven't come forward and shown exactly why he missed the flight but we are not required to do that. What we are required to do is show that he missed the flight, that he had knowledge of the flight and that the reason that he missed the flight was through neglect. Now surely the fact that this witness saw the accused aboard the base within the time range that these flights were supposed to leave is a very strong inference of neglect on the part of the accused. He knew that those flights were supposed to leave. He was aboard the base. We can't come forward and give you the answer as to why if he was aboard the base he didn't get aboard that aircraft, but certainly the presumption is there, Your Honor, for neglect. It was a simple matter from Private MANION's viewpoint to make it down there to that muster and get aboard the aircraft. He did not do that and that is why the testimony of Mr. FRAUMAN is so important concerning his presence aboard the base the morning of the flight.

DC: Your Honor, the presence aboard the base can be explained in a number of ways. He was possibly could have just arrived aboard the base. The accused could have just arrived on the base at the time Mr. FRAUMAN saw him. I say that there was any number of possibilities here, Your Honor, and the whole issue here is a question of the burden of proof. Now I ask Your Honor, are we required to come forward at this point and say well, Your Honor, the government is implying neglect and we are going to rebut that implication. I don't think we are required to do that. I think the government has to show some evidence that there was neglect and I just don't see any here. Now is the evidence were that at the time the flights took off the accused was drinking beer in a local tavern that might be neglect, that might even involve intent or if the accused was found at his bunk playing cards or hiding. The accused wasn't hiding. There is just no evidence on that element.

TC: Once again, Your Honor, listen to the testimony of Mr. FRAUMAN. He saw the accused between 0900 and 0930 about two hundred yards from the Main Gate walking toward the base. To use the defense counsel's own conjecture maybe he was late. He was walking toward the base, but certainly Your Honor,

concerning the motion for a finding of not guilty the prosecution has produced essential evidence on all elements of the offense and for those reasons and those reasons alone the motion should be denied.

DC: We have nothing further, Your Honor.

MJ: The motion for the defense for a finding of not guilty as to Charge 1 and the Specification thereunder is denied.

DC: The defense calls Warrant Officer FRAUMAN. Retract that, Your Honor. The defense calls the accused to the stand at this time.

MJ: Does the defense wish to make opening statement?

DC: There will be no opening statement.

MJ: Very well. You may proceed.

Private Terry F. MANION, U. S. Marine Corps, the accused, was called as a witness, was sworn and testified as follows:

MJ: Does the accused fully understand his rights as a witness and that he will be subject to cross-examination on his testimony?

DC: Yes, Your Honor. The accused understands.

#### DIRECT EXAMINATION

Questions by the prosecution:

Q: Are you the accused in this case?

A: Yes, sir.

Questions by the defense:

Q: Private MANION, you knew about various prospective flights on the 5th of May. Is that correct?

A: Yes, sir.

Q: You fully admit that?

A: Yes, sir.

Q: Do you know whether or not there was a change in the departure times of these flights on that day?

A: If I'm not mistaken when I did arrive at the base that morning I reported in at the shop and talked to a couple of guys that weren't supposed to make the movement and a couple of guys said that it was moved up. I don't remember the exact time that it was moved to.

Q: Would you please describe for the court the series of events leading up to your arrival on the base on the 5th of May?

A: Friday afternoon I was working...looking for a swoop to Atlanta and this was around 1700 and I found one with a friend...not with a friend but more or less with an acquaintance as this was the first time I had ever met him. He was going to Atlanta that weekend so I got a ride with him and went to Atlanta and stayed Friday, Saturday and Sunday he said he would pick me up and that he would be leaving there around 2100 that night.

We started out from Atlanta and back to the base at Beaufort. We had been driving for about an hour or an hour and a half and we were somewhere between Atlanta and Covington, Georgia when we had car trouble and I believe

It was either the starter or generator. My friend got out of the car and started hitch-hiking up the road to see if he could obtain some sort of repair. A garage or filling station or something. He came back...I stayed with the car and waited. He came back within the hour and of course it being Sunday there were no garages or filling stations open. The only thing for me to do of course was start hitch-hiking to Beaufort which I did.

I got to Augusta, Georgia about 0500 in the morning Monday morning and called the base. I was unable to call any earlier because I was on the road all the time. I called and talked to the Duty NCO at "H" Barracks and he only advised me to get in as soon as possible. I found out that there was a bus leaving Augusta, Georgia at 0610 in the morning which was 30 or 40 minutes from then. I got on this bus and rode from Augusta to Beaufort and they dropped me off at the Air Station at approximately 1020 Monday morning. I walked from the gate to the...straight to the Squadron Admin Office where I reported in there and they informed me that I had missed the movement.

Q: Did you call the base?  
A: Yes, I did.

Q: What time?  
A: About 0500.

Q: And when was the first opportunity that you had to call the base?  
A: This was the first opportunity for as I said I had been on the road constantly and unable to get to a phone.

Q: Had the car not broken down would you have made it back to the base in time?  
A: Yes, sir.

DC: Your witness.

#### CROSS-EXAMINATION

Questions by the prosecution:

Q: Were you aware of the 0600 muster on the 5th of May?  
A: Yes, sir.

Q: So in otherwords you were aware that you should have been there at 0600?  
A: Yes, sir.

Q: And you say you had planned to leave at 2100 Sunday evening from Chamblee, Georgia?  
A: Atlanta, Georgia.

Q: Atlanta, Georgia...how far is it from Atlanta to Beaufort, South Carolina?  
A: It is about 360 miles I believe, sir.

Q: How many hours does it normally take to get there?  
A: Four hours.

Q: You can drive 360 miles in four hours?  
A: Yes, sir.

Q: That is 90 miles an hour.  
A: Well it is express a large amount of the way.

Q: Four hours?

A: Yes. It is quite a swoop but it has been made in three hours and fifty minutes which doesn't make any difference, but normally it takes us right around four hours and fifty minutes at the maximum.

Q: To drive 360 miles?

A: Yes, sir.

Q: Is that a four lane?

A: Yes, partially.

Q: How much of it is four lanes?

A: About half.

Q: So in otherwords if you had left at nine in the evening you could have driven 360 miles by one o'clock in the morning roughly?

A: Yes, sir.

Q: And you developed this car trouble around ten thirty?

A: Yes, sir. I believe it was around ten thirty.

Q: And where did you develope the car trouble?

A: I believe it was somewhere around Covington, Georgia.

Q: Was this on a four lane highway?

A: Yes, sir. It was on the expressway.

Q: Well, don't they have all night service stations on the expressway?

A: Normally they do, sir. Covington is a small town. My friend went up the road I would say several miles...I don't know exactly how far and even if a service station was open I don't believe he would have been able to get it repaired because it was a foreign car...an MGB and the normal service stations don't even carry parts and the company wouldn't authorize the service any how.

Q: MGB?

A: Yes, sir.

Q: Can it go that fast? Can it average 90 miles an hour?

A: Yes, sir.

Q: Was the road heavily traveled?

A: No, sir.

Q: There wasn't much traffic?

A: Very little, sir. On a Sunday night at ten o'clock it is very little.

Q: But you were on a four lane highway at that time?

A: Yes, sir.

Q: And you were able to hitch-hike?

A: Yes, sir.

Q: And the first time that you were able to call was at 0500 in the morning?

A: Yes, sir.

Q: And you knew that you had to be there at 0600 for a muster prior to the flight leaving?

A: As I said earlier, sir I believe that the flight had been moved up and the muster had been moved up also. I'm not really sure.

Q: Well, the information that you had was that you were supposed to be there at 0600?  
A: I believe so, sir.

Q: And you got there you say between 1000 and 1030 and the flights had already departed?  
A: Yes, sir.

Q: Had your friend had any car trouble on the way from Beaufort to Augusta, Georgia?  
A: Coming or going?

Q: On Friday?  
A: On Friday we went to Atlanta...no, sir.

Q: On Friday when you went to Atlanta?  
A: No, sir.

TC: I have no further questions.

DC: No further questions.

MJ: You may resume your seat as the accused?

The witness resumed his seat as the accused.

DC: The defense calls Warrant Officer FRAUMAN.

Chief Warrant Officer W. W. FRAUMAN, III, U. S. Marine Corps was recalled as a witness for the defense, reminded that he was still under oath by the trial counsel and testified as follows:

#### DIRECT EXAMINATION

Questions by the defense:

Q: Do you know whether or not the accused called the base on the morning of the 5th of May?  
A: I was told that he did, yes.

DC: No further questions.

#### CROSS-EXAMINATION

Questions by the prosecution:

Q: What time did he call?  
A: I was just told that he called in approximately thirty minutes prior to the muster which would have been about 0530 from Augusta.

Q: Have you ever driven from Atlanta to Beaufort?  
A: Yes, I have.

Q: How long does it take you to drive that far?  
A: To Atlanta...five hours. Between five and six hours.

Q: How many miles is it?  
A: I don't know.

Q: Do you think it could be driven in four hours?  
A: It probably could be if you wanted to kill yourself.

TC: I have no further questions.

DC: No further questions.

MJ: No questions. You are excused.

The witness withdrew from the courtroom.

DC: The defense rest, Your Honor.

TG: Does the prosecution wish to present evidence in rebuttal?

TG: It does not, Your Honor.

MJ: Anything further from either side?

TG: Nothing from the prosecution, Your Honor.

DC: Nor from the defense.

MJ: Does counsel wish to present argument on the findings?

TG: The prosecution does, Your Honor.

MJ: Very well. You may proceed.

TG: Your Honor, as we said a while ago, the prosecution feels that the manual definition of the word neglect is the key element in this case and basically what it boils down to is a failure on the part of the accused to take such action as will ensure...I think that word ensure is important his presence at the prospective movement. I think the other elements of this offense are quite clear and uncontested. He did miss the flight. He did know about it so really the issue here is neglect. The government will argue, Your Honor, that we have sustained our burden on this element and that is neglect. The accused knew for a period going back almost three months as Mr. FRAUMONT's testimony that this flight was leaving. Four weeks before the movement they had musters and each man was told to assemble at 0600 in the morning of 5 May or at least the men leaving on the planes on that date. Now, with this information the accused went home for a weekend on a Friday prior to 5 May. Some 360 or 370 miles away from the area he was due to depart from but that in itself is not indicative of neglect, Your Honor. However, the government would maintain that leaving home at 2100 in the evening, a short nine hours prior to the deployment is neglect on the part of the accused. That is conduct which would not ensure his presence at the movement.

Missing a movement through neglect, Your Honor, is simple negligence. Nine hours with knowledge that the muster was supposed to be held at 0600 is, we would argue, Your Honor, simply not the act of a reasonable man. Cars do break down, people get speeding tickets, tires go flat. A million of things can happen. The road...weather can be bad. We are talking about 360 miles, Your Honor. Now, the accused says he can make it in four hours and that is traveling 90 miles an hour. However, Your Honor, the neglect in this case was to leave in time enough to anticipate difficulties assuming that it wouldn't be a 90 mile an hour trip because that is exactly what did happen, Your Honor, the car did break down and he didn't make it. Now had he made it earlier in the day knowing that he was supposed to deploy at around 0600 in the morning had he left earlier that day on the 4th of May and the car had broken down he could have made it. Had the car or had a flat tire he would have made it. Had the weather of gotten messy or if there had been a sudden raid storm he would have made it because he would have given himself enough time, but what the accused did in this case, Your Honor, was stay home until

the last possible moment on a Sunday evening and he was prepared to drive at speeds that must have been in excess of 90 miles an hour to make it in four hours to get back in time for this flight, but he had a break-down, Your Honor, and he didn't make it. Therefore, the government would maintain that we have borne our burden of proof on the element of neglect. The accused in this case did not take measures which would have been appropriate under these circumstances to ensure his presence at that flight. Had he done so...had he left earlier in the day on Sunday he would have made it even if the car had broke down, but he didn't do that, Your Honor. He left at the last possible moment and just didn't make it and that is neglect, Your Honor. That is a failure to take appropriate action under the circumstances to ensure his presence. He didn't do it and for that reason, Your Honor, he is guilty of this Charge and Specification.

DC: Well, now lets suppose, Your Honor, that instead of driving back the accused would of flown back. Lets suppose the airplane broke. It is foreseeable. Would the accused then be guilty of this criminal act because he didn't anticipate the airplane breaking. I think the prosecutor is wrong. The accused's freely admits that he knew about this flight. He knew about the muster. If he left at 2100 on Sunday night even at a normal rate of speed, lets say 50 miles an hour he would have made it in six hours which would have been three in the morning which would have been plenty of time. Infact it would have been plenty of time for a minor break down of the car. Lets say a flat tire. It takes fifteen minutes to change a flat tire. He could have made it with a flat tire. I just don't know how much one is to anticipate. We are talking about a criminal conviction here, Your Honor, not just a simple court case. Even in simple court principles I don't see any evidence whatsoever. He took whatever reasonable steps were required. I mean maybe he shouldn't have even gone home that weekend. Maybe he should have tied himself down to the airplane two days before and had his meals brought to the airplane so he would be sure and not miss the airplane. I think the government is clearly placing too much of a burden on a man to ensure that he be present at a particular place. The prosecutor mentioned the word assure. In fact he is saying that the accused should have insured that he was present at 0600 on the 5th of May and nobody in the world could do that. I think he took the necessary actions to assure that he would be there on time even anticipating a minor break down of the car he had three hours to spare but the car wouldn't be driven after it broke down. He had to rely on the bus schedules.

MJ: Anything further from either side?

TC: Just to add a last comment, Your Honor. I again feel that the language expressed in the Manual is the determining factor in this particular case. This deployment had been planned for some time. The defense counsel ask the Judge to think well should he have chained himself to the plane. Obviously not. However, Your Honor, this movement had been planned for a good long time and that word assure is important because this was not going to be a movement from one side of the base to the other because if it had been we wouldn't have had a missing movement. This was a movement to Yuma, Arizona which had been carefully planned for quite some time. What is appropriate under the circumstances. When you think of the time and effort that goes into a movement of this nature I think that the word assure becomes quite important because a man should insure that he is going to be there. Maybe it meant coming back Saturday night. Maybe it meant coming back early Sunday morning. We feel, Your Honor, that leaving at 2100 in the evening for a 360 mile drive at night is not appropriate under these circumstances. Not when you consider the time of the departure, the 0600 muster and the fact that it had been planned for two or three months prior. It is just not appropriate under these circumstances and therefore, Your Honor, we argue that he is guilty of missing this movement.

DC: Your Honor, I just don't believe that. The accused left with at least three hours lead way even at speeds which are conservative...even at speeds of 60 miles an hour he had three hours to spare. He says he could have made it sooner. Well, in that case he had plenty of time to spare. I would like to know at what time the prosecutor would concede that he left on time. Eight o'clock, seven thirty, six o'clock, six thirty. The question is, did he take the steps that a reasonable and ordinary prudent man would have taken to be present at 0600 in the morning, and leaving with at least three hours to spare (I think it is prudently reasonable). Of course lets not forget the burden of doubt in the case, Your Honor. Again we are not in a court case. We are not in civil form. We are not in a civil court. We are in a form which requires the government to prove certain elements beyond a reasonable doubt. Now if His Honor doesn't have all kinds of reasonable doubts about neglect on this issue I don't see how else we can generate it because it is there.

MJ: Private Terry F. MANION, U. S. Marine Corps, it is my duty as Military Judge to inform you that this court finds you:

Of the Specification of Charge I: Not Guilty.

Of Charge I: Not Guilty.

Of Charge II and the Specification thereunder: Guilty.

Of Additional Charge I and the Specification thereunder: Guilty.

MJ: The court will now hear the personal data concerning the accused as shown on page one of the charge sheet and will receive evidence of previous convictions and other pertinent matter from the current service record of the accused.

TG: The first page of the charge sheet reflects the following data concerning the accused as shown in this case, Private Terry F. MANION

The trial counsel read page one of the charge sheet.

TG: Now, the...

MJ: Would you again read the pretrial restraint, Trial Counsel.

The trial counsel did as directed.

DC: Just to clarify, Your Honor, the restriction...that was restriction to barracks. Otherwise, the date as read are correct.

TG: Would you please mark these documents as prosecution exhibits.

REPORTER: These shall be Prosecution Exhibits 1 and 2 for identification.

TG: I will show Prosecution Exhibits 1 and 2 for identification to the defense counsel for his inspection and possible objection.

DC: Well, I take that on Prosecution Exhibit 1 for identification the Military Judge will be asked to consider only the first three entries?

TG: That is correct.

DC: We have no objections to Prosecution Exhibits 1 and 2 for identification.

TG: Your Honor, I would request that Prosecution Exhibit 1 for identification be admitted into evidence as Prosecution Exhibit 1 and I would ask that the Military Judge consider only the first three entries on that Prosecution Exhibit for identification. Also, Your Honor, I would request that Prosecution Exhibit 2 for identification be admitted into evidence as Prosecution Exhibit 2 and we would request permission to substitute true copies thereof into the record at the conclusion of this trial as needed.

MJ: I think that without looking at Prosecution Exhibit 1, if it is subject to being masked I suggest that it be masked before I see it...that the inappropriate entries be masked.

TG: May I ask for a short recess then, Your Honor.

MJ: The court will stand in recess until recalled by the Military Judge.

The court recessed at 1028 hours, 21 April 1970.

The court opened at 1028 hours, 21 April 1970.

MJ: The court will come to order.

TG: Let the record reflect that all parties to the trial who were present prior to the court recessing are again present.

TG: I will show Prosecution Exhibit 1 for identification again to the defense counsel and indicate for the record that all entries except the first three entries thereon have been masked out. Is it acceptable to the defense counsel.

DC: The defense has no objection.

TG: I would again ask Your Honor to admit Prosecution Exhibit 1 for identification into evidence as Prosecution Exhibit 1.

MJ: Prosecution Exhibits 1 and 2 for identification are admitted into evidence as Prosecution Exhibits 1 and 2 and the words "for identification" will be deleted. True copies may be substituted for the record of trial as required. The Military Judge will consider only the unmasked portions of Prosecution Exhibit 1.

TG: The prosecution has nothing further to offer, Your Honor.

DC: Please mark these documents as Defense Exhibit A for identification.

NOTE: The reporter did as directed.

DC: I show Defense Exhibit A for identification consisting of two pages to the prosecution for possible objection.

TG: The trial counsel has no objection to Defense Exhibit A for identification. However, we would ask the Military Judge not to consider the two administrative marks of zero contained on this defense exhibit.

DC: The defense offers into evidence Defense Exhibit A for identification consisting of two pages.

MJ: Defense Exhibit A for identification will be received into evidence as Defense Exhibit and the words "for identification" will be deleted. True copies may be substituted into the record of trial as required. The Military Judge will not consider the administrative marks of zero entered thereon.

DC: The accused having been advised of his right to remain silent wishes to make an unsworn statement.

MJ: Very well.

AGC: Sir, I've been charged with a violation of Articles 86 and 87 of the UCMJ. I pled not guilty and was found not guilty to the charge of Article 87 for the following reasons:

On or about 2 May 1970 I found myself with a friend in Atlanta, Georgia on a weekend liberty from Beaufort MCAS. We left Atlanta to return to the base about 2100 Sunday. While enroute we had car trouble somewhere between Atlanta and Covington, Georgia. If not mistaken, I believe it was the starter.

My friend hitch-hiked up the expressway in search of a garage or filling station to see about repairs. I stayed with the car. My friend returned within the hour with the news that being Sunday no help was available.

I then commenced hitch-hiking and got a ride to Augusta, Georgia. I was unable to call the base before arriving in Augusta because I was on the road the whole time. As soon as I got to Augusta, Georgia I called the base and spoke to the duty COO of "H" Barracks and told him what happened. He advised me to get to the base as soon as possible. This was about 0500.

The first bus leaving for Beaufort was at 0610. I caught this bus and arrived at Beaufort at approximately 1020. I then reported to the admin office where I was informed that I had missed the movement. I believe that on that same day I spoke to Captain REILEY, the Squadron Legal Officer who told me I was as good as guilty of missing movement. He also told me that very rarely do mitigating circumstances help disprove the charge. For the rest of the week I worked around the admin office painting and doing odd jobs.

During this time what Captain REILEY had told me about being good as guilty kept going through my mind. He told me that I could probably expect a sentence of four to five months confinement. This bothered me view of the fact that it was my intention of making my four year enlistment with a relatively clean record.

It was at this time I went UA because of my own state of mind concerning my future prospects with the Marine Corps. I was gone for approximately two months. During this time I was in contact with my XO, Major THREYMORTAN who advised me to return to the base. I told him I wasn't sure what I wanted to do and would like to think it over for a day or so. I thought things over for about a month and decided to turn myself in.

My father gave me a ride back to Beaufort. I remained there for about a week or so. During this time more thoughts of what was to come for my being UA and allegedly missing movement. I decided to leave again and returned to my home in Atlanta, Georgia, worked for five months as a musician, at the end of which I was apprehended by the FBI on 26 January 1970.

I was then taken to the stockade at Fort McPherson in Fort McPherson, Georgia and confined there till 11 February 1970. I was then picked up and taken to the brig at Parris Island, South Carolina that Friday. I was given office hours and recommended for a general court-martial. On the same day I was introduced to my defense counsel, Captain R. A. DELBELLO. I was in transfer to the brig at Cherry Point MCAS.

Shortly after arriving there I wrote to Captain DELBELLO requesting that he make up the necessary papers for a UD request. It was several weeks before I heard from him. When I did it was to go to Beaufort for my Article 32. At this time I was still unable to sign a request for a UD for reasons I don't know. I returned to Cherry Point.

About a month passed and I was again taken to Beaufort to sign my UD request, returned to Cherry Point and Captain DEMICHAEL was assigned to me as a defense counsel.

DC: The defense has nothing further, Your Honor.

PG: Anything further from either side?

TC: The prosecution has nothing further. We would like to make argument on the sentence, Your Honor.

MJ: Very well. You may proceed.

TC: Your Honor, one of the pieces of data read from the first page of the charge sheet concerning the accused is his birth date. I believe the accused was 22 years old this last January. Your Honor, at the age of 22 a person should be leaving childhood and entering manhood. The actions on the part of the accused certainly indicate the acts of a relatively immature person. A person who has the inability to face the music so to speak and I say that for two reasons, Your Honor. First of all after voluntarily turning himself in from his first unauthorized absence he was not confined or restricted. In otherwords the Marine Corps gave him an opportunity to prove whether or not he could make it. Obviously he didn't, Your Honor, because he went UA again and remained gone for some five and a half months and at that time had to be apprehended and brought back to the Marine Corps.

These are the acts, Your Honor, of a relatively immature person. However, he was 22 years old. Also, Your Honor, the accused is not a new comer to the necessities of military discipline and justice for we have a prior summary court-martial conviction and a prior unauthorized absence so he should have known at the end of his first UA here that certainly disciplinary action was going to be taken against him.

Your Honor, the government would argue very strongly that the accused should be severely punished for these offenses because he has not acted as a mature person should act. He has been given several opportunities as evidenced by his prior record of misconduct and he was given a further opportunity when he returned voluntarily from his first unauthorized absence. He has lived up to none of these obligations and for a second unauthorized absence he had to be apprehended.

Your Honor, this is the type of conduct which cannot be tolerated nor condoned within the Marine Corps. This is serious misconduct on the part of the accused and he should be punished accordingly.

DC: I think the accused has had plenty of time to mature in the last three months that he has been locked up, Your Honor. I ask the court to consider that factor right there as I feel it is a very important one. The fact that he is a little bit older indicates that he ought not to be confined excessively. I ask the court to consider the I think highly improper statements of Captain REILEY the Squadron Legal Officer in informing the accused that he was in fact guilty of something that he was not in fact guilty of. The legal officer shouldn't be...shouldn't go around telling people these things even if it is true but in this case of course, it was not true.

Of course, this particular point cannot serve to justify the entire period of unauthorized absence. We ask the court to consider only the terms of the further action in this case. The accused did surrender after the first unauthorized absence. Once he did go UA he began to go down hill...it began to get on his nerves and he went UA again. Consider the anticipation of the last three months. The accused being confined here at Cherry Point and his

then defense counsel, Captain DELBELLO being down at Beaufort. The difficulty in filing and obtaining a request for discharge to avoid court-martial. Normally these things take approximately two weeks to get up to the Commanding General who is the convening authority for general courts-martial. It wasn't until yesterday that this request was brought to the attention of General GARNER so the pretrial confinement time was even more serious than a normal situation and finally I ask the court to consider the record of service as evidenced by the Defense Exhibits.

MJ: Anything further from either side?

TC: Nothing from the prosecution, Your Honor.

DC: Nor the defense.

MJ: The court will be closed.

The court closed at 1040 hours, 21 April 1970.

The court opened at 1055 hours, 21 April 1970.

MJ: The court will come to order.

TC: Let the record reflect that all parties to the trial who were present when the court closed are again so present.

MJ: The accused and his counsel please rise.

MJ: Private Terry F. MANNION, U. S. Marine Corps, it is my duty as Military Judge to inform you that this court sentences you:

To be discharged from the service with a bad conduct discharge, to be confined at hard labor for a period of one year, and to forfeit all pay and allowances for a like period.

MJ: Has the prosecution any other cases to try at this time?

TC: Not at this time, Your Honor.

MJ: The court will adjourn to meet at the call of the Military Judge.

The court adjourned at 1057 hours, 21 April 1970.

## **AUTHENTICATION OF RECORD OF TRIAL**

in the case of

Private, Terry F., 2004104, 237 89 42, U. S. Marine Corps, Marine Air Force Squadron 31, Marine Aircraft Group 31, 24 Marine Aircraft Wing, PW, Atlantic.

JAMES F. CHAPMAN  
Capt. U.S.A.R.

## MILITARY JUDGE RUMMEL

19

(Law Officer) (Trial Counsel)<sup>1</sup>

19

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

**Defense Counsel**

19

<sup>1</sup> Delete inapplicable term. Trial counsel may not authenticate a general court-martial record.

**OFFENSES AND**

690223: VMFA-451, MAG-31, 2d MAW, MCAS Beaufort, S.C. To UA(AWOL) fr this org since 0311, 690214. Abs rpt on UD# 37-69/01451 dtd 690223.

*O.L. Bumgarner*

O.L. BUMGARNER, 1stLt, AdminO, ByDir

690224: VMFA-451, MAG-31, 2d MAW, MCAS Beaufort, S.C. Fr UA(AWOL) at 0315, 690224 when surr this cmd. Term of abs rpt on UD# 37-69/01451 dtd 690224.

*O.L. Bumgarner*

O.L. BUMGARNER, 1stLt, AdminO, ByDir

690227: VMFA-451, MAG-31, 2d MAW, MCAS Beaufort, S.C. Viol Art 86, UCMJ. UA(AWOL) fr 0311, 690214 to 0315, 690224. Awd as COP, to be restricted to the limits of MCAS Beaufort, S.C. for 30 days, to be red to <sup>1/2</sup> B-2 and to forfeit \$25.00 per mo for two mos but the red is suspended for four mos, at which time, unless the suspension is sooner vacated, the sentence to be red will be remitted without further action. Auth art 10, UCMJ. Awd as COP. No appeal. Rpt on 1/2 UD# 37-69/01451 dtd 690227.

*O.L. Bumgarner*

O.L. BUMGARNER, 1stLt, AdminO, ByDir

Good Conduct Medal Period Commencement 12-3-6 OCT 1968 690403 (1stInd)

EMBOSSING PLATE IMPRESSION

MANION, TERRY F.

2378942

*G. Blackford*  
CERTIFIED TO  
A TRUE COPY

*P. J. Ex*

*for*

*Officer*

*Officer*

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

RMHIC FORM 12-PD (REV. 10-65) SUPERSEDES PREVIOUS 12-61 WHICH WILL BE USED

CONTINUED ON SUPPLEMENTAL PAGE 12 12....

OFFENSES AND PUNISHMENTS

A-15205

## RECORD OF CONVICTION BY COURT-MARTIAL

## 1. ORGANIZATION

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

## 2. TRIED BY:

(Check  
one) SUMMARY COURT-MARTIAL SPECIAL COURT-MARTIAL GENERAL COURT-MARTIAL

DATE OF TRIAL

3 April 1969

## 3. SUMMARY OF CHARGES AND SPECIFICATIONS:

Chg - Violation art 92: Spec. Failure to obey a lawful order issued by Col. Lonnie P. BAITES, 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

CERTIFIED TO BE  
A TRUE COPY*W. Phillippe*

## 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: 7 Apr 69  
UD 1067-69

 PAY STATUS NOT AFFECTED

8. SIGNATURE: *O. L. Bumgarner*  
O. L. BUMGARNER

9. RANK

1stLt

10. TITLE AND ORGANIZATION

AdminO, By direction, VMFA-451, MAG-31  
2dMAW, FMSLant, 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

13. SIGNATURE: *O. L. Bumgarner*  
O. L. BUMGARNER

14. RANK

1stLt

15. TITLE AND ORGANIZATION

AdminO, By direction, VMFA-451, MAG-31  
2dMAW, FMSLant, MCAS, Beaufort, S. C.PPC  
W. Phillippe

MANTON

Terry

F.

2378942

NAME (Last)

(First)

(Middle)

MILRC 112(13)-P9 (REV. 10-62)

(File in SRB)

13 [1]

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

SUPERSIDES 11-55 EDITION  
WHICH MAY BE USED

U. S. GOVERNMENT PRINTING OFFICE: 1962 OF - 65389

PROS Ex 2 for ID

Exhibit 2

### LEVELS OF SERVICE

ORGANIZATION	DATE	REASON	PRIMARY DUTY	PROFICIENCY GENERAL MILITARY SUBJECTS	CON- DUCT	SIGNATURE OF WARRANT OFFICER	
2d RECONNAISSANCE MERRIMAC, MASS.	18 OCT 1967	SA	Under Reconnaissance			Mr. J. Miller	
2d RECONNAISSANCE MERRIMAC, MASS.	16 DEC 1967	SA	Reconnaissance		4.1	Mr. J. Miller	
2d ICBM, 1st IR MCB, CAMDEN, N.C.	DEC 17 1967	SA	Compt.		4.2	Mr. J. Miller	
2d ICBM, 1st IR MCB, CAMDEN, N.C.	DEC 18 1967	10 AM	DATA AS6			J. Miller BY DIR	
2d ICBM, 1st IR MCB, CAMDEN, N.C.	JAN 05 1968	today	MSM			J. Miller BY DIR	
2d ICBM, 1st IR MCB, CAMDEN, N.C.	JAN 22 1968	EMPLOYEE	Duties			J. Miller BY DIR	
2d ICBM, 1st IR MCB, CAMDEN, N.C.	JAN 22 1968	JR	ICT COMPL.		9.1	9.2	J. Miller BY DIR
Stud. & Dev. Cnrs MAD, NATTC, JAXFLA.	14 Feb 68	Jd	TECHNS AO(A) Scol			J. L. Sander	
Stud. & Dev. Cnrs MAD, NATTC, JAXFLA.	03 Jul 68	Tr	TECHNS AO(A) Scol		3.9	4.0	J. L. Sander
PerfPers MAD, NATTC, JAXFLA.	04 Jul 68	Jd	SUPPORT AO(A) Scol			J. L. Sander	
PerfPers MAD, NATTC, JAXFLA.	31 Jul 68	Semi-Ann	SUPPORT AO(A) Scol	3.4	4.5	4.2	J. W. Kuebler BY DIR
PerfPers MAD, NATTC, JAXFLA.	31 Jul 68	Semi-Ann	SUPPORT AO(A) Scol	3.6	4.5	4.2	J. W. Kuebler BY DIR
PerfPers MAD, NATTC, JAXFLA	15 Nov 68	Tr	SUPPORT AO(A) Scol	4.2	4.2	W. R. Zane BY DIR	
VFA-451, MAG-31, MCAS, Beaufort, S.C.	681217	Jd	AvnOrdMan			W. R. Zane	
VFA-451, MAG-31, MCAS, Beaufort, S.C.	690214	To UA	(AWOL)			W. R. Zane	
VFA-451, MAG-31, MCAS, Beaufort, S.C.	690224	Surr	AvnOrdMan			W. R. Zane	
VFA-451, MAG-31, MCAS, Beaufort, S.C.	690131	Semi-Ann	AvnOrdMan	3.5	4.1	4.1	W. R. Zane BY DIR
VFA-451, MAG-31, MCAS, Beaufort, S.C.	690325	Red	AvnOrdMan		4.1	2.9	W. R. Zane
VFA-451, MAG-31, MCAS, Beaufort, S.C.	690403	Cnfd	Brig USAF, Charleston, S.C.			W. R. Zane	
VFA-451, MAG-31, MCAS, Beaufort, S.C.	690418	To du	AvnOrdMan			W. R. Zane	
VFA-451, MAG-31, MCAS, Beaufort, S.C.	690512	To UA	AWOL			W. R. Zane BY DIR	
VFA-451, MAG-31, MCAS, Beaufort, S.C.	690612	Des	UA (AWOL)		0	W. R. Zane BY DIR	
VFA-451, MAG-31, MCAS, Beaufort, S.C.	690731	To du	AvnOrdMan			W. R. Zane BY DIR	

#### ENRICHED PLATE BUSINESS

MANSON, TERRY N.

2378942

A TRUE COPY

DEF EX A ~~PAR 2~~  
CONTINUED ON SUPPLEMENTAL PAGE 3a

**EMBOSSER PLATE IMPRESSION**

CERTIFIED TO BE  
A TRUE COPY

HANION, TERRY F.

237 89 42

NAME (last) (First) (Middle) SERVICE NO. *617 Ex H 617*  
N/MC 118(3)-50 (Rev. 6-62) SUPERSEDES PREVIOUS EDITION WHICH WILL BE USED 3a

## INSTRUCTIONS FOR PREPARING AND ARRANGING VERBATIM RECORD OF TRIAL

USE OF FORM - Appendix 9a, MCM, 1951, and this form will be used by the trial counsel and the reporter as a guide to the preparation of the completed record of trial in all general court-martial cases and in all special court-martial cases in which a verbatim record is prepared.

COPIES OF RECORD - See appendix 9f, MCM, 1951.

ARRANGEMENT OF RECORD - When forwarded to the appropriate Judge Advocate General, a record of trial by general or special court-martial will be arranged in the sequence shown below. Items 8 and 9, if prepared, will be included in a special court-martial record.

1. Front cover and chronology sheet.
2. Request of accused for appellate counsel.
3. Briefs of counsel (Art 38c).
4. Court-martial data sheet.<sup>1</sup>
5. Court-martial orders; 10 copies promulgating the result of trial as to each accused.
6. Signed review of staff judge advocate or legal officer, in duplicate.
7. Charge sheet.
8. Report of investigating officer pursuant to article 32, followed by any other papers which accompanied the charges when referred for trial, unless included in the record of trial proper.
9. Advice of staff judge advocate or legal officer pursuant to article 34.
10. Records of former trials.
11. Requests by counsel and action of the convening authority taken thereon (e. g., requests concerning delay, witnesses, and depositions).
12. Record of trial proper in the following order:
  - (a) Index sheet.
  - (b) Receipt of accused, or certificate of trial counsel, showing delivery of copy of record to accused.
  - (c) Record of proceeding in court.
  - (d) Action of convening authority and, if appropriate, action of officer exercising general court-martial jurisdiction.
  - (e) Exhibits admitted in evidence.
  - (f) Clemency papers.
  - (g) Offered exhibits not received in evidence, but which are attached at request of counsel. The page of the record of trial where each exhibit was offered and rejected will be noted on the front of each exhibit.
  - (h) Appellate exhibits, such as proposed instructions, written offers of proof or preliminary evidence (real or documentary), and briefs of counsel.
13. This back cover sheet.

<sup>1</sup>Unless otherwise directed by the cognizant general court-martial authority the Navy does not use DD Form 494, Court-Martial Data Sheet (see JAG Man. sec. 0114a(4)).

You have been examined and found physically fit for separation from active duty. Any defects noted during this examination are recorded in block #74 of the attached Report of Medical Examination (SF 88). Although the defects listed do not disqualify you for performance of your duties or entitle you to disability benefits from the naval service you may be entitled to certain benefits from the Veterans Administration. In this connection, you should be counseled by the VA representative attached to your separation activity, if one is available, concerning the filing of claims for compensation with the Veterans Administration. Otherwise, it is suggested that you contact the VA Regional Office nearest your home as soon as practicable after you separation or retirement.

REPORT OF MEDICAL EXAMINATION

IA 0108-200-7002 88-105

1. LAST NAME—FIRST NAME—MIDDLE NAME <b>MANNION, TERRY FRANK</b>				2. GRADE AND COMPONENT OR POSITION <b>E-7 USMC</b>		3. IDENTIFICATION NO. <b>237 89 42</b>	
4. HOME ADDRESS (Number, street or RFD, city or town, zone and State) <b>ATLANTA, GA. 30518</b>				5. PURPOSE OF EXAMINATION <b>BCD 19 JAN. 71</b>		6. DATE OF EXAMINATION <b>13 JAN. 71</b>	
7. SEX <b>M</b>	8. RACE <b>CAUC.</b>	9. TOTAL YEARS GOVERNMENT SERVICE <b>3y 3mo.</b>		10. AGENCY <b>DOD</b>	11. ORGANIZATION UNIT <b>USMC PORTSMOUTH, N.H.</b>	14. NAME, RELATIONSHIP, AND ADDRESS OF NEXT OF KIN <b>Mrs. L.L. MANNION (M) RT #3 BUFORD, GA.</b>	
12. DATE OF BIRTH <b>2 JAN. 48</b>		13. PLACE OF BIRTH <b>ATLANTA, GA.</b>		15. EXAMINING FACILITY OR EXAMINER, AND ADDRESS			
16. OTHER INFORMATION <b>LUTH SSAN</b>				TIME IN THIS CAPACITY (Total) <b>1</b>		LAST SIX MONTHS	
17. RATING OR SPECIALTY							

CLINICAL EVALUATION		
NORM. MAL.	(Check each item in appropriate col- umn; enter "NE" if not evaluated.)	ABNORM. MAL.
18. HEAD, FACE, NECK, AND SCALP		
19. NOSE		
20. SINUSES		
21. MOUTH AND THROAT		
22. EARS—GENERAL (Int. & ext. canals) (Auditory acuity under items 70 and 71)		
23. DRUMS (Perforation)		
24. EYES—GENERAL (Visual acuity and refraction under items 68, 69 and 71)		
25. OPHTHALMOSCOPIC		
26. PUPILS (Equality and reaction)		
27. OCULAR MOTILITY (Associated parallel move- ments, nystagmus)		
28. LUNGS AND CHEST (Include breasts)		
29. HEART (Thrust, size, rhythm, sounds)		
30. VASCULAR SYSTEM (Varicosities, etc.)		
31. ABDOMEN AND VISCERA (Include hernia)		
32. ANUS AND RECTUM (Hemorrhoids, fistulae) (Prostate, if indicated)		
33. ENDOCRINE SYSTEM		
34. G-U SYSTEM		
35. UPPER EXTREMITIES (Strength, range of motion)		
36. FEET		
37. LOWER EXTREMITIES (Except feet) (Strength, range of motion)		
38. SPINE, OTHER MUSCULOSKELETAL		
39. IDENTIFYING BODY MARKS, SCARS, TATTOOS		
40. SKIN, LYMPHATICS		
41. NEUROLOGIC (Equilibrium tests under item 78)		
42. PSYCHIATRIC (Specify any personality deviation)		
43. PELVIC (Females only) (Check how done)		
<input type="checkbox"/> VAGINAL <input type="checkbox"/> RECTAL		

NOTES. (Describe every abnormality in detail. Enter pertinent item number before each comment. Continue in item 73 and use additional sheets if necessary.)

**#39 CIRC.  
VSULA  
SCAR ON CHIN  
V SHAPED SCAR LEFT LOWER LEG.**

(Continue in item 73)

44. DENTAL (Place appropriate symbols above or below number of upper and lower teeth, respectively.)												REMARKS AND ADDITIONAL DENTAL DEFECTS AND DISEASES				
O—Restorable teeth I—Nonrestorable teeth						X—Missing teeth XXX—Replaced by dentures						(6 X 8)—Fixed bridge, brackets to include abutments				
R	1	2	3	X	5	6	7	8	9	10	11	X	13	14	15	L
I	32	31	30	29	28	27	26	25	24	23	22	21	20	19	18	E
G																F
H																T
T	0	0	X						0	0			0	0		

LABORATORY FINDINGS

45. URINALYSIS: A. SPECIFIC GRAVITY <b>1.029</b>				46. CHEST X-RAY (Place, date, film number and result)			
B. ALBUMIN <b>NEG.</b>		D. MICROSCOPIC <b>WNL</b>					
C. SUGAR <b>NEG.</b>		E. EKG		47. SEROLOGY (Specify test used and result)			
48. BLOOD TYPE AND RH FACTOR		49. OTHER TESTS					
VDRL NON-REACTIVE							

## MEASUREMENTS AND OTHER FINDINGS

51. HEIGHT <b>66"</b>	52. WEIGHT <b>140</b>	53. COLOR HAIR <b>brn.</b>	54. COLOR EYES <b>brn.</b>	55. BUILD: <input type="checkbox"/> SLENDER <input checked="" type="checkbox"/> MEDIUM <input type="checkbox"/> HEAVY <input type="checkbox"/> OBES	56. TEMPERATURE <b>98.6°</b>					
57. BLOOD PRESSURE (Arm at heart level)				58. PULSE (Arm at heart level)						
A. SITTING	SYS. <b>110</b>	B. RECUM- BENT	SYS. <b>76</b>	C. STANDING (3 min.)	SYS. <b>76</b>					
	DIAS. <b>76</b>	DIAS. <b>76</b>	DIAS. <b>76</b>	DIAS. <b>76</b>						
59. DISTANT VISION		60. REFRACTION		61. NEAR VISION						
RIGHT 20/ <b>20</b>		BY S. OX		CORR. TO BY						
LEFT 20/ <b>20</b>		BY S. OX		CORR. TO BY						
62. HETEROPHORIA (Specify distance)										
ES°	EX°	R. H.	L. H.	PRISM DIV.	PRISM CONV. CT	PC	PD			
63. ACCOMMODATION		64. COLOR VISION (Test used and result) <b>PIP 1965 15/15</b>				65. DEPTH PERCEPTION (Test used and score)		UNCORRECTED		
RIGHT	LEFT	66. FIELD OF VISION				67. NIGHT VISION (Test used and score)		CORRECTED		
68. FIELD OF VISION		69. INTRAOCCULAR TENSION				70. HEARING		71. AUDIOMETER	72. PSYCHOLOGICAL AND PSYCHOMOTOR (Tests used and score)	
RIGHT WV <b>15</b>	/15 SV	/15	250 400	500 618	1000 1024	3000 2048	3000 2898	4000 4096	6000 6144	8000 8192
LEFT WV <b>15</b>	/15 SV	/15	RIGHT							
LEFT WV <b>15</b>	/15 SV	/15	LEFT							

**73. NOTES (Continued) AND SIGNIFICANT OR INTERVAL HISTORY**

I certify that I have been informed of and understand the provisions of BUMED INST 6120.

Terry F. Monson  
Signature

(Use additional sheets if necessary)

**74. SUMMARY OF DEFECTS AND DIAGNOSES (List diagnoses with item numbers)**

75. RECOMMENDATIONS—FURTHER SPECIALIST EXAMINATIONS INDICATED (Specify)		76. A. PHYSICAL PROFILE					
		P	U	L	H	E	S
77. EXAMINEE (Check)		B. PHYSICAL CATEGORY					
A. <input checked="" type="checkbox"/> IS QUALIFIED FOR <b>BCD</b> And to perform the duties of his rank at sea B. <input type="checkbox"/> IS NOT QUALIFIED FOR <b>and in the field.</b>							
78. IF NOT QUALIFIED, LIST DISQUALIFYING DEFECTS BY ITEM NUMBER		A	B	C	D	E	
79. TYPED OR PRINTED NAME OF PHYSICIAN		SIGNATURE					
80. TYPED OR PRINTED NAME OF PHYSICIAN		SIGNATURE					
<b>MICHAEL L. SHUMAN LT. (MC) USNR</b>							
81. TYPED OR PRINTED NAME OF DENTIST OR PHYSICIAN (Indicate which)		SIGNATURE					
<b>JOHN J. SCHNEIDER CAPT (DC) USN</b>							
82. TYPED OR PRINTED NAME OF REVIEWING OFFICER OR APPROVING AUTHORITY		SIGNATURE					
		NUMBER OF ATTACHED SHEETS					

**DEPARTMENT OF THE NAVY**

**COMMANDING OFFICER  
U.S. NAVAL DISCIPLINARY COMMAND  
PORTSMOUTH, NEW HAMPSHIRE, 03801**

**OFFICIAL BUSINESS**

Terry Frank Manion

Atlanta, Ga., 30508



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