

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)			2d INDORSEMENT
FROM: (Grade, name and organization of investigating officer) LTC Louis J. Stadler, HQ, Third US Army, DCSO&T, P&O Division		DATE OF REPORT 6 Mar 1970	
TO: (Title and organization of officer who directed report to be made)			
GRADE AND NAME OF ACCUSED PVT E-2 Billy J. Baskette	SERVICE NUMBER	ORGANIZATION US Army, Special Processing Detachment, US Army Garrison, Ft McPherson	
DATE OF CHARGES 20 Feb 70			
(Check appropriate answer)			
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.)		YES NO	
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:			
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		N/A	
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 LANE, James W., CPT	ORGANIZATION HQ, Third US Army, SJAGC		
c. MILITARY COUNSEL REQUESTED BY NAME WAS QUALIFIED WITHIN THE MEANING OF ARTICLE 27(b), UNIFORM CODE OF MILITARY JUSTICE		X	
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)		X	
f. THE ACCUSED STATED HE WOULD BE REPRESENTED BY CIVILIAN COUNSEL		X	
g. NAME AND ADDRESS OF SUCH COUNSEL N/A	MEMBER OF THE BAR OF N/A		
h. (This item to be used by accused's civilian counsel only)			
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 N/A	ORGANIZATION N/A		
c. APPOINTED COUNSEL (as in b above) WAS QUALIFIED WITHIN THE MEANING OF ARTICLE 27(b), UNIFORM CODE OF MILITARY JUSTICE		N/A	
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)			
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.			

(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)

X

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

N/A

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.

N/A

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

N/A

NAME AND GRADE OF WITNESSES
WHO WERE PRESENT

ORGANIZATION OR ADDRESS

EXHIBIT
NUMBER

None

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:

N/A

NAME AND GRADE OF ABSENT WITNESSES

ORGANIZATION OR ADDRESS

EXHIBIT
NUMBER

None

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

N/A

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

Charge Sheet

1

Extract Copy of Morning Report, 4th Bn, 94th FA

2

Extract Copy of Morning Report, USAG, 3A

3

~~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~~

DA Form 19-32, Military Police Report

4

3AA Form 215, Personal History of Accused

5

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

None

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

None

(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)		N/A	
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)		N/A	
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			
N/A			
d. A REPORT OF A (BOARD OF MEDICAL OFFICERS) (PSYCHIATRIST) IS APPENDED (Exhibit)			
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)			
N/A			
12. EXPLANATORY OR EXTENUATING CIRCUMSTANCES ARE SUBMITTED HERewith.			
NONE			
13. a. I HAVE INVESTIGATED AND FIND <u>0</u> PREVIOUS CONVICTION(S) OF OFFENSES COMMITTED WITHIN THE ^{six} THREE YEARS NEXT PRECEDING THE COMMISSION OF AN OFFENSE WITH WHICH THE ACCUSED IS NOW CHARGED (MCM, 1951, par 75b(2)) AND DURING:			
(1) A CURRENT ENLISTMENT, VOLUNTARY EXTENSION OF ENLISTMENT, APPOINTMENT, OR OTHER ENGAGEMENT OR OBLIGATION FOR SERVICE OF THE ACCUSED, OR		N/A	
(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.		N/A	
b. AN EXTRACT COPY OF THE ACCUSED'S MILITARY RECORDS OF PREVIOUS CONVICTIONS IS APPENDED (Exhibit)		N/A	
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 type="checkbox"/> GENERAL <input type="checkbox"/> SPECIAL <input checked="" type="checkbox"/> SUMMARY COURT-MARTIAL IS RECOMMENDED.			

1. 021500 Mar 70 advised of appointment as Article 32 Investigation Officer for this case.
2. Received briefing and associated paperwork at 031030 Mar 70. Private Billy J. Baskette was not available for interview due to his assignment to a work detail for the post stockade. Arrangements made to interview Pvt Baskette on 4 Mar 70.
3. 040800 Mar 70, Pvt Baskette requested that CPT James W. Lane be assigned as military counsel. CPT Lane was assigned but will not be available until 5 Mar 70 to advise Pvt Baskette.
4. 05 Mar 70, investigation conducted in Post Stockade in presence of military counsel. Pvt Baskette elected not to make a statement.
5. My recommendation is based on a review of Pvt Baskette's personnel records, attached exhibits and a personal interview, in the presence of military counsel (CPT Lane). Due to Pvt Baskette's record of no prior convictions, but in view of the ANOL period (6 months), I do not feel that this case warrants a General Court Martial, as recommended by his Commanding Officer.

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

LTC LOUIS J. STADLER, HQ, Third US Army, DCSOIT
E&O Division

Louis J. Stadler