

LARRY L. BAROKAS
DALE R. MARTIN
JACK A. RICHEY
STEPHEN R. SCHAEFER

LAW OFFICES
BAROKAS, MARTIN, RICHEY & SCHAEFER
1608 SMITH TOWER
SEATTLE, WASHINGTON 98104

AREA CODE 206
TELEPHONE 602-7666

TO: Major General Willard Pearson
Commanding General
United States Army Training Center
Fort Lewis, Washington

Through: Staff Judge Advocate Office
Fort Lewis, Washington

Subject: Transfer of Sergeant E-5 Charles E. Hutto

The undersigned, one of Sergeant E-5 Charles E. Hutto's civilian defense counsel retained by the Sergeant to handle the charges apparently pending against him under the Uniform Code of Military Justice hereby and pursuant to an oral decision rendered on January 29, 1970 by the Honorable George Boldt whereby the said Judge ordered that a fact finding hearing be held at Fort Lewis, Washington to determine whether or not and upon what basis the Army should transfer the Sergeant to a station in Georgia, hereby presents certain facts in support of the Sergeant's motion not to be transferred to said station in Georgia.

The undersigned retained civilian counsel has had many conferences and discussions with the Sergeant and with his Army appointed attorney Captain Neil C. Buren in regard to the handling of the Sergeant's case and further civilian counsel have expended a great deal of time and effort already upon this matter. That the civilian counsel desire to continue to assist the Sergeant in this matter and that the Sergeant desires that said counsel be permitted to act in his defense. That in order for civilian counsel to so assist him in said defense, it is imperative that the Sergeant remain stationed at Fort Lewis, Washington until said charges pending against him are finally disposed of. The reason for this is that the Sergeant has not sufficient funds within which to carry on any meaningful contact with his attorneys through such communications as telephone calls, mailing of packages, traveling between Seattle and Georgia for defense conferences and any other such matters that might arise during the course of the case.

It would be a virtual deprivation of counsel and it would be impossible for counsel and the Sergeant to carrying on any meaningful or intelligible conferences, conversations, meetings, etc., if the parties were separated by a distance of approximately 3,000 miles. That the Army has no reason and has advanced no reason whatsoever to show why it is necessary to transfer the Sergeant to Georgia. Therefore, it is assumed that there is no justification or legal reason for said transfer.

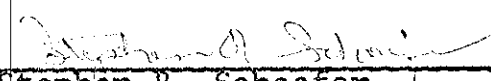
The undersigned civilian counsel hereby requests that the Army comply with the terms of the Honorable George Boldt's order and set this matter for an immediate fact finding hearing on the record in order that both sides may fully present their respective reasons for transferring or not transferring the Sergeant to Georgia and for both sides to have the right to respective cross-examination on the record so that findings of fact may be made which could be reviewed by the Judge.

That the undersigned civilian attorney specifically protests in advance any other means other than a fact finding hearing on the record as a way of fairly and adequately determining the reasons for the transfer to Georgia. The reason for this is that to date the Army has not furnished one reason or justification in writing or otherwise to civilian counsel as to the necessity for the Sergeant's transfer. Therefore until such is received, it is assumed that none in fact exists. On the other hand the Sergeant has previously by affidavit and civilian counsel herewith by this memo have given more than adequate reasons and justifications as to why the Sergeant should not be transferred.

Civilian counsel are ready at any and all times to the Army's convenience for a fact finding hearing on the record and again specifically requests that an immediate hearing on the record be held in order that specific findings of fact as to the above subject may be made.

BAROKAS, MARTIN, RICHEY & SCHAEFER

By


Stephen R. Schaefer
Civilian Attorney For
Sergeant Charles E. Hutto