



DEPARTMENT OF THE ARMY
HEADQUARTERS, THIRD UNITED STATES ARMY
FORT MC PHERSON, GEORGIA 30330
Office of the Staff Judge Advocate

AJAJA

23 March 1972

SUBJECT: Request to Re-open Article 32 Investigation

Commanding General
Third US Army
ATTN: Staff Judge Advocate
Fort McPherson, Georgia 30330

1. On or about 24 February 1972, an Article 32 Investigation was conducted in the cases of U.S. versus Haywood S. Barnes and U. S. versus Sam Barnwell. Upon completion of the Article 32 Investigation it was discovered that parts of the testimony given by two witnesses had not been recorded. Quoting from the court reporter's statement found in the verbatim record of testimony, the following explanation was provided "Due to a mechanical difficulty the rest of MSG Hayne's testimony and most of the direct examination of Mr. Johnson have been lost."
2. Mr. Johnson was the individual allegedly robbed and MSG Haynes is the Master at Arms at the NCO Club. Both gave testimony that is direct and material to the charges against Barnes and Barnwell.
3. Request is therefore made that the Article 32 Investigation be re-opened, to take the testimony of Mr. Johnson and MSG Haynes in complete verbatim form. This request is necessary for two reasons. First, this will allow the defense counsel to be able to rely on the testimony given at the Article 32 Investigation for impeachment purposes. Secondly, this will allow the Staff Judge Advocate to have a proper foundation to base his recommendations to the Convening Authority in the pre-trial advice. The exclusion of this testimony works to the prejudice of the accused. A fair and impartial presentation of available evidence can not be presented for a proper disposition towards referral for trial.

JAMES W. LANE
CPT, JAGC
Defense Counsel



DEPARTMENT OF THE ARMY
HEADQUARTERS, THIRD UNITED STATES ARMY
FORT MC PHERSON, GEORGIA 30330
Office of the Staff Judge Advocate

AJAJA

23 March 1972

SUBJECT: Request to Re-open Article 32 Investigation

Commanding General
Third US Army
ATTN: Staff Judge Advocate
Fort McPherson, Georgia 30330

1. On or about 24 February 1972, an Article 32 Investigation was conducted in the cases of U.S. versus Haywood S. Barnes and U. S. versus Sam Barnwell. Upon completion of the Article 32 Investigation it was discovered that parts of the testimony given by two witnesses had not been recorded. Quoting from the court reporter's statement found in the verbatim record of testimony, the following explanation was provided "Due to a mechanical difficulty the rest of MSG Hayne's testimony and most of the direct examination of Mr. Johnson have been lost."
2. Mr. Johnson was the individual allegedly robbed and MSG Haynes is the Master at Arms at the NCO Club. Both gave testimony that is direct and material to the charges against Barnes and Barnwell.
3. Request is therefore made that the Article 32 Investigation be re-opened, to take the testimony of Mr. Johnson and MSG Haynes in complete verbatim form. This request is necessary for two reasons. First, this will allow the defense counsel to be able to rely on the testimony given at the Article 32 Investigation for impeachment purposes. Secondly, this will allow the Staff Judge Advocate to have a proper foundation to base his recommendations to the Convening Authority in the pre-trial advice. The exclusion of this testimony works to the prejudice of the accused. A fair and impartial presentation of available evidence can not be presented for a proper disposition towards referral for trial.

JAMES W. LANE
CPT, JAGC
Defense Counsel