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May 21, 2023

MEMORANDUM FOR TRIAL COUNSEL

FROM: DEFENSE COUNSEL (CAPT ANNE FREEBY, MR. JONATHAN CRISP)

SUBJECT: *United States v. Lt Travis Baker* – Request for Bill of Particulars

1. The defense is requesting this Bill of Particulars in accordance with Rule for Courts-Martial (RCM) 906(b)(6).

- a. Lt Baker is facing multiple charges to include one charge and two specifications in violation of Article 107, Uniform Code of Military Justice (UCMJ), one charge and two specifications in violation of Article 113, UCMJ, and one charge and two specifications in violation of Article 133, UCMJ.
- b. Charge III, Specification 1, alleges that the Accused was, at or near Peterson Space Force Base, Colorado, on or about 14 October 2022, dishonorably and disgracefully disrespectful to [REDACTED], and which conduct, under the circumstances, was unbecoming an officer and a gentleman.
- c. The Defense respectfully requests that the Government provide a bill of particulars answers to the following question:
 - i. Regarding Charge III, Specification 1, what essential facts establish that the accused was dishonorably and disgracefully disrespectful to [REDACTED] which, under the circumstances, was unbecoming an officer and a gentleman?

2. According to the discussion of R.C.M. 906(b)(6) in the Manual for Courts-Martial, a Bill of Particulars should be used to:

inform the accused of the nature of the charge with sufficient precision to enable the accused to prepare for trial, to avoid or minimize the danger of surprise at the time of trial, and to enable the accused to plead the acquittal or conviction in bar of another prosecution for the same offense when the specification itself is too vague and indefinite for such purpose.

The defense requires this bill of particulars to inform the accused of the nature of the charge with sufficient precision to enable the accused to prepare for trial, and to determine whether any legitimate preemption or multiplicity issues exist as well as to properly prepare for trial and minimize the danger of surprise.

3. Furthermore, the "Sixth Amendment requires that an accused be afforded notice of the offense with which he is charged, and the Fifth Amendment requires that he be protected from further prosecution for the same offense." *United States v. Bryant*, 30 M.J. 72, 73 (C.M.A. 1990)(citing *Russell v. United States*, 369 U.S. 749, 763-64 (1962); *Wong Tai v. United States*, 273 US 77, 80-81 (1927)).

4. If you have any questions, please contact either Capt Freeby at [REDACTED] or [REDACTED] for me at [REDACTED] or via telephone at [REDACTED]

Very respectfully,

[REDACTED]

JONATHAN W CRISP
Civilian Defense Counsel