

UNITED STATES OF AMERICA)

v.)

ROBERT BOWDRIE (BOWE) BERGDAHL)
Sergeant (E-5), U.S. Army)
Headquarters and Headquarters Company)
Special Troops Battalion)
U.S. Army Forces Command)
Fort Bragg, North Carolina 28310)

ELECTRONIC DOCKET REQUEST
(AR 27-10)

SECTION A

(To be completed by Trial Counsel and delivered to Defense Counsel before 1500 hours on the first duty day after referral of charges to trial.)

1. Type of court-martial: GCM: BCD: SPCM:
2. Date charges referred to trial: 14 December 2015
3. Date referred charges served upon the accused: 14 December 2015
4. Accused has **not** been in pretrial confinement.
5. Date referred charges provided to defense counsel: 14 December 2015
6. The prosecution will be ready for trial on and after: The Government anticipates having met its discovery obligation by May 2016, and can be ready for trial by May 2016. *See the Motion previously provided to the Court.*
7. The military judge should consider the following matters when setting a trial date: *See the Motion previously provided to the Court.*
8. Companion case(s): N/A
9. Special Victim Counsel (Name, phone, and email address): N/A
10. Trial Counsel (Name, phone, and e-mail address):

TC: MAJ Margaret Kurz: (910) 570-8128, Margaret.v.kurz.mil@mail.mil
ATC: LTC Christopher Beese: (910) 570-5922, christian.e.beese.mil@mail.mil
ATC: CPT Michael Petrusic: 910-570-5925, michael.petrusic.mil@mail.mil
ATC: CPT Eileen Whipple: (910) 570-5916, eileen.c.whipple.mil@mail.mil

11. Date: 14 December 2015. The Government requests that the time from notice of the referral to the Court onward is excluded delay.

APPELLATE EXHIBIT

PS 183

21

SECTION B

(To be completed and delivered by Defense Counsel to Trial Counsel by 1500 hours on the third duty day after receipt.)

1. The defense:

- requests an earlier trial date of
- does not oppose a trial date as indicated in Section A.
- requests a delay until *** for the following reasons:

The Trial Counsel indicates in Section A that the government will be ready for trial in May 2016, and the Assistant Trial Counsel in a 14 December 2015 motion for an Article 39(a) pretrial conference wrote (at p. 11) that the "[e]arliest [e]stimated [t]rial [d]ate" is 31 October 2016.

We cannot at this juncture estimate when we will be ready for trial. The defense has not yet seen most of the evidence in this case. We have not yet completed a review of the voluminous materials sent by trial counsel after referral. Additionally, Trial Counsel indicate that over 25,000 pages of classified materials are potentially relevant to the case. The prosecutors brought in 10 additional attorneys – de facto Assistant Trial Counsels – and acquired a document management software program to review even more documents. The defense will seek to review these materials as well.

The government is processing a TS-SCI clearance request for Mr. Fidell. We also expect that the psychologist assisting the defense, Dr. Mary Connell, will require a Secret clearance in order to prepare on relevant aspects of SERE Psychology, much of which involves classified information.

- 2. Anticipated forum: MJ alone: Off Panel: Enl Panel:
- 3. Anticipated pleas: Guilty: Not Guilty: Mixed:
- 4. Anticipated motions:

- Motion to re-open the Article 32
- UCI, to include improper congressional influence
- Adverse pre-trial publicity
- Unreasonable multiplication of charges
- Motion to dismiss Charge I and its specification (condonation)
- Motion to dismiss Charge II
- Motion in limine regarding MRE 513 violation
- Motion in limine regarding punishment
- Motion for confinement credit, to include Article 13

Motion to suppress accused's 2014 interview by [then] MG Dahl
Motion regarding panel selection (article 25(d)(2), UCMJ)
Motion regarding public access to case documents
Motion to designate Fort Sam Houston as the place of trial

5. Estimated number of days for trial: cannot yet estimate

6. Civilian counsel (Name, address, phone, e-mail address, and fax):

Eugene R. Fidell, Esq., [REDACTED], 203-432-4852
(office); [REDACTED] (cell); efidell@ftlf.com

7. Detailed Defense Counsel (Name, phone, and e-mail address):

CPT Alfredo N. Foster, 210-295-9742, alfredo.n.foster.mil@mail.mil

8. IMC (Name, phone, and e-mail address):

LTC Franklin D. Rosenblatt, 703-693-0283 (office), 571-723-1162 (blackberry),
franklin.d.rosenblatt.mil@mail.mil.

9. Date: 17 December 2015

SECTION C

(To be completed by Trial Counsel and delivered to the judge on the first duty day after return from Defense Counsel.)

1. Contents of Section B are noted. The prosecution:

does not oppose the trial date requested by the defense.

opposes the earlier trial date or delay requested by the defense for the following reasons:

The Defense did not provide a requested trial date. The Government refers the Court to its earlier Motion.

2. Estimated number of days for trial: 14

3. Date: 18 December 2015

NOTE: Charge Sheet(s), Convening Order(s), and ERB / ORB/ DA Form 2-1 must be delivered, emailed, scanned, or faxed to the judge NLT 24 hours after referral.