

From: [Oshana, Justin C MAJ USARMY FORSCOM \(US\)](#)
To: [Will M. Helixon](#)
Cc: [Fussnecker, Jerrod B MAJ USARMY FORSCOM \(US\)](#); [Whipple, Eileen C CPT USARMY 16 MP BDE \(US\)](#); [Gleich, Oren MAJ USARMY XVIII ABN CORPS \(US\)](#); "Eugene Fidell"; "Frank Rosenblatt"; [Rosenblatt, Franklin D LTC USARMY \(US\)](#); [Crocker, Michael T SSG USARMY HODA OTJAG \(US\)](#); [Thomas, Jason D MAJ USARMY XVIII ABN CORPS \(US\)](#); [Norvell, Jennifer D CPT USARMY ICOE \(US\)](#)
Subject: RE: [Non-DoD Source] Request for Information and Documents
Date: Saturday, August 20, 2016 3:09:46 PM
Attachments: [Convening Authority Copy PHO Memo Subject Additional Defense Objection.pdf](#)

Mr. Helixon,

My apologies for leaving you off the distro list; you are correct, it was inadvertent.

Your request was submitted on a Saturday (a non-duty day) at 1414 and requested delivery of the material by 0900 on Monday. As such, there are portions of the request that the Government cannot comply with, and will follow up with you again during the week. As a courtesy, the Government provides the following preliminary responses.

Item 1 of your request is denied. The request is not relevant, necessary nor otherwise material to the preparation of the defense.

It is my understanding that the AR 15-6 investigation was delivered to the Government electronically. In accordance with RCM 1103(b)(2)(D) it is my understanding that the original PHO report was delivered to the Court, and may presently be with the Clerk at ACCA as part of the Government's Article 62 appeal. I will not be able to confirm this information until during regular duty hours.

Item 3 of your request is denied. The request is not relevant, necessary nor otherwise material to the preparation of the defense.

Upon information and belief, there are no responsive documents to item 4.

Although item 5 was previously provided to the Defense by LTC Visgar on 21 October 2015, the copy presented to the Convening Authority is attached. I will send an additional copy on Monday that is Bates stamped (again, because this request was submitted over a weekend, the people responsible for BATES stamping our material are not here).

Item 6 is denied. The request is not relevant, necessary nor otherwise material to the preparation of the defense.

v/r,

Justin C. Oshana
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D APPELLATE EXHIBIT 42
Pg 183

MAJ Oshana

-----Original Message-----

From: Will M. Helixon [<mailto:will@helixongroup.com>]

Sent: Saturday, August 20, 2016 2:14 PM

To: Oshana, Justin C MAJ USARMY FORSCOM (US) <justin.c.oshana.mil@mail.mil>

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Subject: [Non-DoD Source] Request for Information and Documents

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

MAJ Oshana:

Yesterday, presumably inadvertently, you left me off the defense distro list when you sent a copy of the defense objections to the Article 32 on which appears the purported handwritten notes of the Convening Authority. That disclosure, combined with the Government Response to the Defense Motion to Disqualify the Convening Authority, necessitates the following request for discovery. Please provide the following to the defense no later than 0900 on Monday, 22 August 2016:

1. Copies of GEN Robert Abrams Officer Evaluation Reports while serving as the Military Assistant to the Secretary of Defense.
2. The original binders containing MG Dahl's AR 15-6 investigation and LTC Mark Visgar's Article 32 Preliminary Hearing Officer's Report for inspection.
3. A digital copy of the Word version of the affidavit of GEN Robert Abrams submitted with the Government Response to the Defense Motion to Disqualify the CA with all metadata preserved.
4. Any correspondence between Convening Authority and Staff Judge Advocate (other than the Art. 34 advice) concerning the PHO report, defense objections/comments, the defense interview, and the affidavit executed by GEN Abrams attached to the Government Response submitted yesterday.

5. The Convening Authority's copy of the 21 October 2015 document referred to in para. 7 of GEN Abrams affidavit.

6. The name and contact information for any person the Convening Authority consulted in preparing the affidavit.

Respectfully,

WMH

Will M. Helixon

913.839.9762 (Kansas)



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