



DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
SPECIAL ASSISTANT UNITED STATES ATTORNEY
2387 HATFIELD STREET
FORT HUACHUCA, ARIZONA 85613

JUL 20 2007

ATZS-JA-MJ

MEMORANDUM FOR Staff Judge Advocate, United States Army Intelligence Center and Fort Huachuca, Fort Huachuca, Arizona 85613

THRU Staff Judge Advocate, United States Army Intelligence Center and Fort Huachuca, Fort Huachuca, Arizona 85613

SUBJECT: Request for Official Information and Testimony at a Judicial Proceeding

1. PURPOSE: To request the attendance of Sergeant Major Julius E. Gonzales, Provost Marshal's Office, Fort Huachuca, Arizona, as a witness for the United States in the joined cases of United States v. Louis Vitale and United States v. Stephen Kelly on 13-14 August 2007 in the United States District Court at Tucson, Arizona. This request originates pursuant to the requirements outlined in AR 27-40, para. 7-2d and codified in 32 C.F.R. § 516, which require parties in litigation to submit a request for the attendance of military personnel at least 14 days before the desired date of production in a specific written request setting forth the nature and relevance of the official information sought.

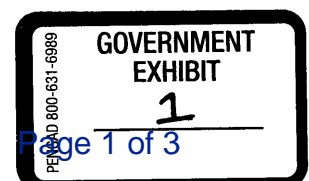
2. BACKGROUND:

a. On 19 November 2006 Friar Louis Vitale and Reverend Stephen Kelly participated in a protest outside the boundaries of Fort Huachuca. They proceeded onto the property of the Fort and refused to comply with the orders of Military Police, to include Sergeant Major Gonzales. They were arrested and subsequently charged with the offenses of criminal trespass and disobeying orders of police. The offense of criminal trespass is based on a violation of the Department of the Army Installation Access Control Program Order of October 10, 2003, which dictates a 100% identification check requirement for access to military installations. Both men face up to 10 months imprisonment and substantial fines if convicted.

b. The defendants have asserted that they were permitted to walk on Fort Huachuca property, short of a guard shack to deliver a letter to the Commanding General. They have also asserted that Fort Huachuca trained interrogators to conduct torture and such training justified them in their entry to Fort Huachuca.

3. NATURE OF OFFICIAL INFORMATION SOUGHT:

a. The Government has filed various motions to rebut the defendants' allegations. One exhibit submitted by the Government in its response to the defense motion to dismiss is the text of the Department of the Army Installation Access Control Program Order. The Government seeks witness testimony regarding the following information:



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(1) A description of Fort Huachuca's implementation of the Department of the Army Installation Access Control Program Order of October 10, 2003, on November 19, 2006.

(2) A description of Sergeant Major Gonzales's duties on November 19, 2006, including responsibilities related to protestors.

(3) Sergeant Major Gonzales's personal observations leading up to the arrest of the defendants.

(4) A description of any crimes known by the Provost Marshal's Office occurring at Fort Huachuca on November 19, 2006.

(5) A description of the threat level at the Main Gate to Fort Huachuca on November 19, 2006 and corresponding access control measures.

(6) A description of interaction with municipal law enforcement on November 19, 2006 in relation to protest activities.

(7) A description of jurisdictional responsibilities of the Provost Marshal's Office and Military Police at the Main Gate to Fort Huachuca on November 19, 2006.

b. This request extends to all testimony, except testimony that would reveal any classified information exempt from disclosure by Executive Order 12065, National Security Information (Jun. 28, 1978); the Freedom of Information Act, 5 U.S.C. § 552(b)(1); the Classified Information Procedures Act, 18 U.S.C. app.; Pub. L. No. 96-456, 94 Stat. 2025; DoD Directive 5200.1-R, Department of Defense Information Security Procedure Regulation (Jan. 17, 1997); Army Regulation 27-40, Litigation (Sep. 19, 1994), or a recognized governmental privilege to withhold information that would be damaging to national security.

4. RELEVANCE OF OFFICIAL INFORMATION SOUGHT:

a. The above information is relevant to clarify the nature of identification checks for persons entering Fort Huachuca and the responsibility of Military Police to enforce those requirements. Sergeant Major Gonzales is requested to provide such testimony because of his role as the senior noncommissioned officer responsible for the operations of the Provost Marshal's Office and Military Police operations. Furthermore, he is charged in the information as one of the Military Police Officers the defendants disobeyed. He possesses first-hand knowledge of the events leading up to the arrest of the defendants. A description of crimes occurring at Fort Huachuca on November 19, 2006 will reveal whether any person was tortured by interrogator trainees on that date.

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5. POC is the undersigned at (520) 533-0588.

A handwritten signature in black ink, appearing to read "Evan R. Seamone". The signature is fluid and cursive, with a large initial "E" and "S".

EVAN R. SEAMONE
CPT, JA
Chief, Military Justice
Special Assistant United States Attorney