

UNITED STATES
v.
JAY D. WYLIE
COMMANDER
XXX-XX (b) (6) /1110
USS MOMSEN (DDG 92)

No. II of II

RECORD OF TRIAL

By

GENERAL COURT-MARTIAL

CONVENED BY

COMMANDER
NAVY REGION NORTHWEST
1100 HUNLEY ROAD
SILVERDALE, WA 98315-1100

Tried at

WESTERN JUDICIAL CIRCUIT COURTHOUSE
NAVAL BASE SAN DIEGO, CALIFORNIA 92136-5025

ON

28 OCTOBER 2011

THERE ARE NO COMPANION CASES

COPY FOR GOVERNMENT COUNSEL
CASE BEFORE NAC&PANEL NO

2

201200088

MJ: Again, we're going--I think you need to come over here because she's turned away from the mike and----

DC: Yes, ma'am, okay. I'm sorry.

[Moves into position.]

MJ: And again, if--Petty Officer (b) (6) if you could just speak up.

Q. You thought he was, you know, somebody you admired before then.

A. Yes, sir.

Q. And the crew respected and liked him.

A. Yes.

Q. And as the Lieutenant mentioned, you've now gone on to USS SHOUP.

A. Yes, sir.

Q. Your EAOS is, I think, June 2013, you said?

A. Yes, sir.

Q. You're--you're considering reenlisting, is that right?

A. Yes.

Q. And you've advanced in your career since this time.

A. Yes.

Q. You've put on a crow since this event.

A. Yes.

DC: Those are my only questions. Thank you.

MJ: Government, do you have redirect?

ATC: One moment, Your Honor.

[Conferring with co-counsel.]

No, Your Honor.

MJ: Does either side desire the witness held subject to recall?

ATC: No, Your Honor.

[The witness was excused and withdrew from the courtroom.]

ATC: Your Honor, at this time the government would call Ensign

(b) (6) United States Navy.

ENSIGN (b) (6) U.S. Navy, was called as a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by the assistant trial counsel:

Q. Can you, please, state your full name, and spell your last name?

A. **(b) (6)**

Q. What is your current rank?

A. Ensign.

Q. Your armed force?

A. Navy.

Q. Duty station?

A. USS MOMSEN, Everett, Washington.

Q. Ensign (b) (6) where are you from?

A. I'm from (b) (6)

Q. When did you decide to join the Navy?

A. I decided to join the Navy when I was a junior in high school.

Q. And what was your commissioning source?

A. My commissioning source was the United States Naval Academy.

Q. When did you graduate from the Naval Academy?

A. 28 May 2010.

Q. During your time at the Naval Academy, was there any specific mentorship or advice you received regarding dealing with male officers in the fleet?

A. Yes, sir. I was told that a lot of times you'll be treated--it's possible that you could get treated unequally and that you need to make sure that you don't fall into any stereotypes, to prevent that.

Q. And is that something you took with you when you hit the fleet?

A. Yes, sir, some aspects I definitely did, and other aspects not so much. Lots of advice.

Q. What was your first duty station after the Academy?

A. My first duty station was USS MOMSEN.

Q. When did you report to MOMSEN?

A. June of 2010.

Q. Is that when you were onboard for an extended period of time?

A. No, sir, we reported for a day, and then we went to introductory SWOS, which was also in Everett, but we stayed off the ship during that time.

Q. When did you return to the ship after introductory SWOS?

A. We returned back to the ship that--about August, sir.

Q. Who was the Commanding Officer when you returned to the ship?

A. When we returned, it was Commander Wiley.

Q. What duties were you assigned?

A. I was just assigned as the OI Division Officer.

Q. What responsibilities does the OI Division Officer have?

A. I'm in charge of the--the OS--the enlisted rate of OS's, who--they work in Combat, so I'm basically the--underneath the CIC Officer, the Combat Information----

Q. And what does "OI" stand for?

A. "OI" stands for Operations Intelligence.

[END OF PAGE]

Q. Petty Officer (b) (6) what plans do you have to cope with what happened and what Commander Wiley did to you in the future?

A. [Pause.] I just wake up every day and try to--try to act like it was--like every other day.

ATC: Thank you, Petty Officer (b) (6)

Your Honor.

MJ: Defense, do you have cross-examination?

DC: Briefly, just a few questions. I can stay at counsel table if it's alright with the court.

MJ: That's fine.

DC: Petty Officer (b) (6) I'm going to ask you just a few questions about Captain Wiley before--before the incident.

CROSS-EXAMINATION

Questions by the defense counsel:

Q. You described him as--as highly respected by the crew.

A. Yes, sir.

Q. You thought he was a polite Commanding Officer?

A. Yes, sir.

Q. And he was--"Joe Navy" was one way to describe him, would that be fair?

A. Yes, sir.

Q. A Sailor's CO and a good CO?

Q. From August to the end of December of 2010, how much interaction did you have with your then-Commanding Officer, Commander Wiley?

A. During that time period I had really minimal interaction with him, sir.

Q. Now, during this timeframe, the ship went on a deployment, correct?

A. Yes, sir.

Q. When did you leave for deployment?

A. We left for deployment the day after Labor Day weekend.

Q. What AOR did you go to?

A. We went to--we stayed in Seventh Fleet, and we also went to Fifth Fleet for antipiracy.

Q. Now I want to direct your attention to New Year's Eve of 2010/2011, alright?

A. Yes, sir.

Q. At that point, how long had you been on the ship?

A. I'd been on the ship since probably September, sir.

Q. Was this your first deployment?

A. Yes, sir.

[END OF PAGE]

Q. Did you feel like you had any close friends on the ship at that time?

A. I had friends, but more ship friends than close friends, no one I really trusted a whole lot.

Q. Where was the ship on New Year's Eve?

A. The ship was in-port in Victoria, Seychelles.

Q. What, if any, plans did the wardroom make for that visit?

A. The--for that visit, the wardroom got an admin room, which was basically a room where whatever officers wanted to would chip in and it would alleviate the costs of getting a place to stay during the port visit.

Q. And was that admin actually a house?

A. Yes, sir, it was a house.

Q. And what port was the ship in?

A. Victoria, Seychelles.

Q. Now, on New Year's Eve, were you off the ship?

A. Yes, sir.

Q. And what plans did you have for that night?

A. For that evening we decided to go out to a bar in downtown.

Q. Who else was going to this bar?

A. With us it was the other officers in the admin that did not have duty the next day.

Q. Did that include your Commanding Officer?

A. Yes, sir.

Q. Did you observe Commander Wiley at the bar?

A. Yes, sir.

Q. And at some point he started dancing with you, correct?

A. That's correct, sir.

Q. Prior to him starting dancing with you, how was he acting?

A. Prior to that, he was just acting drunk, kind of sloppy, slurred speech, a little unstable.

Q. Is this the first time you've ever seen Commander Wiley act this way?

A. No, sir.

Q. Tell the military judge about a previous time that you've seen Commander Wiley acting this way.

A. Yes, sir. Ma'am, I had also seen Commander Wiley act drunk when I--or unstable, drunk, slurred speech, that kind of behavior when we were in Yokosuka, Japan, on another port visit. We went to Tokyo to--we got another admin and we were out at the--we were out at the bars in downtown Roppongi, and at one of the bars he ended up going to the same that my liberty buddies and I--myself went to, and he was very unstable, drunk. His behavior was attributed to drunk because of the fact that he would--I saw him taking drinks off the bar. Other members of the bar----

DC: I'm going to object to this narrative as uncharged misconduct. It's beyond the scope of the offenses.

MJ: Government?

ATC: Your Honor, I think it goes to character of service, as well as it's in the--I believe it's in the stipulation of fact.

MJ: It--I believe it is in the stipulation of fact; have you read that?

DC: It is, and we understand the uses that can be made of the stip; it sounds like we've gone beyond what the parameters of the stipulation were, and it's not the appropriate way, under 1001, to----

MJ: Do you intend to get any more than that? I mean what-- where are you going with this?

ATC: Your Honor, there is some specific acts of Commander Wiley at the bar with reference to Ensign (b) (6)

MJ: Which are not in the stipulation?

ATC: Yes, ma'am.

MJ: And why do you feel those are admissible?

ATC: I--I believe they go to, as I said, to the character of his service.

MJ: Anything further from the defense?

DC: No, ma'am.

MJ: I--I'm going to sustain the objection. I----

ATC: Yes, ma'am.

MJ: I--I think it's getting into an area that's dangerous.

ATC: Yes, ma'am.

MJ: I mean you can talk about the general effect that he was drinking, but getting into specific acts of the same sorts of misconduct that are charged, I think, is not advisable.

ATC: Yes, ma'am.

MJ: I'm going to sustain the objection.

ATC: Understood.

Q. Ensign (b) (6) I'm going to redirect you back to New Year's Eve in Seychelles, alright?

A. Yes, sir.

Q. At some point did Commander Wiley attempt to dance with you?

A. Yes, sir.

Q. How was his appearance when he tried to dance with you?

A. It was the same as the appearance that I described before, sir.

Q. So that would be unstable?

A. Unstable, dru--just general drunk aspects: unstable, slurred speech.

Q. Did you want to dance with Commander Wiley?

A. No, sir.

Q. And where were you dancing?

A. On the general dance floor, it was just an open space.

Q. Were you dancing with anyone in particular?

A. I was around and near the other people from the wardroom, sir.

Q. How would Commander Wiley approach you when you were dancing?

A. He came up and came close to me, more--closer than I'm comfortable with because the people I'm with, we just more like our space, and it--it's understood amongst us. So he came up and got really close, and I was uncomfortable, so I moved away, and it just continued that he would move up and kind of stand really close to me.

Q. Now you said you'd move away. Can you tell the military judge a little bit more about what you were doing to avoid dancing with him?

A. Yes, sir. Well, ma'am, he--so what I would do to avoid him is I actually got up and would go around on the other floor, go to a different area or go to a different group because the--there was more people than just the ones we came with there, so I was just trying to socialize a little more than staying where he was.

Q. Did those efforts work, Ensign (b) (6)

A. No, sir.

Q. How long was he attempting to dance with you?

A. It was for--it was for--some time--probably, like, 20--20, 30 minutes; it was a sustained period of time.

Q. What eventually happened to get you away from Commander Wiley?

A. Eventually--I had been making it very obvious that I was not happy with him being that close, so some of the chiefs' mess came and grabbed me, and they--in front of everyone they said they were putting me in time-out, and then pulled me over to a--a table where they were sitting at and said, "You know you're free to leave. We just didn't want you to be in that situation any longer."

Q. What situation did you interpret them to be referring to?

A. I interpreted them to be referring to the fact that Commander Wiley was very close to me, and it was apparent that I wasn't able to shake him.

Q. So it was pretty clear to these chiefs, based on your conversation with them, that they could see you were uncomfortable on the dance floor.

A. Yes, sir.

[END OF PAGE]

Q. Now you mention these chiefs; how many members of the MOMSEN crew were at this bar?

A. I couldn't tell you. There was probably a sixth of the crew, if not more. It was a really large amount. It was enlisted, chiefs' mess, wardroom.

Q. So from junior Sailors through the wardroom.

A. Mostly we had more senior, sir.

Q. After you were off the dance floor, at some point did Commander Wiley approach you again in the bar?

A. Yes, sir, he approached me while I was still at the chiefs' table.

Q. Can you tell the military judge about that?

A. Yes, sir. Ma'am, he approached me from behind and started massaging my shoulders. At this point I didn't know it was him, and I turned around and I hit him away with my forearm, and I said, "Don't touch me," or something to that respect (sic). I turned around and saw it was him and was surprised and didn't really know what to say because I just kind of pushed away the arms of my CO, and I was more shocked that I had actually kind of hit someone in a way, and that was the first time. And then I went back to talking with the chiefs, and he did it again.

Q. Now you said that you were sort of taken aback because you had just hit your CO, correct, Ensign (b) (6)

A. Yes, sir.

Q. What impact would it have on you that he was your CO? What did that mean to you?

A. That mean that you can't really--you kind of have to--like in the wardroom, they--you kind of laugh at the jokes they say--the CO says even if they're not funny. It's just kind of the pol--you do niceties and be polite even if you're not--just polite--being polite is what you're supposed to do, and you're supposed to respond to him as the--the authority that he has. Like, he's the CO, so you act accordingly.

Q. You sort of let him do what----

A. Ye----

Q. ----he wanted to do?

A. Yes, sir.

Q. Is that what was going through your mind when you pushed him away right there?

A. Not when I pushed him away, but afterwards, yes, sir.

Q. How did Commander Wiley react when you pushed him away?

A. He kind of stepped back and did a "I don't know"-type thing with his arms, and just kind of looked at me funny, like he didn't expect that I would have pushed him away.

Q. After this, did you remain seated at the table?

A. After the--the first one, yes; then the second massage after that is when I got up and left because I realized it was him again. And so instead of the physical interaction, I physically removed myself from the situation and went up to the bar.

Q. Was that a purposeful decision on your part to get away from Commander Wiley?

A. Yes, sir.

Q. And you said you went to the bar?

A. Yes, sir.

Q. What were you doing at the bar?

A. I was getting some water, just trying to get away from the situation, and I really didn't have anywhere else to go. Everyone else was on the dance floor; I didn't want to go back there. Chiefs' table was--I was getting my space invaded there, as well, so I just went to the next place I could think of.

Q. So just moving away from Commander Wiley again?

A. Yes, sir.

Q. So you're at the bar. Did Commander Wiley approach you again?

A. Yes, sir.

Q. What did he do?

A. He approached me at the bar, and he put himself next to me but also on--almost on top of me, kind of pinning me to the bar. Actually, he was pinning me to the bar with the way he was standing. He's large, and so it put me--he put his body between--he put my body between his body and the bar itself.

Q. How much weight did he have on you?

A. I would say most.

Q. What, if anything, did Commander Wiley do at this point?

A. At this point, he started leaning up against me, putting the rest of his weight, I guess, up towards me. His head went right next to my head, so that his lips were around by my ears so he had to bend over a little bit, and he started whispering in my ear and trying to--to kiss me, I'm not sure exactly where, the face/neck area, though, and whenever he'd try to do that I'd pull away. Whenever he tried to whisper, I'd kind of pull away and try to move away, but I couldn't move my body because it was pinned.

Q. What happened next?

A. At this point he continued to do that. I continued to try to move away without causing a scene because, like I said earlier, most of the crew was there. There were actually people standing--sitting directly behind us, so everything was in full view, so I was

trying not to cause a scene. At this point, I felt his--his hand go up underneath my dress, move over my underwear and penetrate me.

Q. When you say "penetrate" you, what--what do you mean?

A. He put his fingers in my vagina.

Q. Did he just put them in or----

A. No, he put them in and started moving them in and out.

Q. How long do you think he did that for?

A. About 15 to 20 seconds is my recollection.

Q. What was going through your mind when you first felt what he did?

A. When I first felt it, I really had--didn't know what to do or think. He--I just kind of went into a shocked, frozen, couldn't move, couldn't really think. I just--the only thing going through my head was utter--I didn't even have words that were going through; I just was frozen.

Q. How did you eventually get away from Commander Wiley?

A. I eventually got away from him, sir, by--someone bumped into him and he lost his balance, and so his weight got off of me. At that point, I kind of woke up from whatever my frozen state was and looked around and just went straight to the bathroom.

Q. How long did you go to the bathroom for?

A. For the rest of the evening, which was a fair amount of time, at least an hour.

Q. What were you doing in the bathroom?

A. I was in one of the bathroom stalls, crying.

Q. Why were you crying?

A. I was crying because of the fact that I had just been sexually assaulted by my Commanding Officer, and I had no idea what to do. And I felt like I had no one to turn to.

Q. Well, wouldn't it have been pretty easy for you to just go report your Commanding Officer?

A. I--it's easy to say that it's--you can go and report anyone, but the actual reporting itself or even saying anything bad about your CO is just this huge monumental act that I couldn't even comprehend at the time especially.

Q. So you're in the bathroom crying for an hour, and what thoughts are going through your head?

A. The thoughts that were going through my head in the bathroom were--it was still kind of a shock so I didn't really have any thoughts yet. I just--it was more of the "I can't believe," "I don't believe," just trying to--and then I was trying to compose myself because I couldn't leave with most of my crew in the bar with my face completely red and--it--I'm--actually, if I even get flustered, you can tell right away.

Q. What effect did it have on you that this was your Commanding Officer who had just sexually assaulted you in the middle of the bar with the whole crew there?

A. What effect did it have on me?

Q. At this time.

A. I--at that time, sir? At that time, I was just trying to get out of there. I--I really couldn't even think about it. I just wanted to get somewhere where I could try and figure out what had just happened.

Q. Where did you go that night?

A. I went back to the admin, sir.

Q. Were you able to talk to anyone about what had happened?

A. When we left, we--we had one van for the entire admin, so Commander Wiley was in that--was in the van, as well, but he had sat close to the front so I made sure I was as far back as I could get, and I was sitting next to one of the female--another female officer on the ship who I was close with, and she could tell something was wrong, and she asked if something was wrong, and I just started crying again. So--and then after that, we went back to the admin, and her and I shared a--had shared a room so we went to that room, and she just kind of comforted me through the night.

Q. Now the next day, did you see Commander Wiley?

A. Yes, sir.

Q. What type of contact did you have with him that day?

A. That evening, on the ground floor of the ad--the admin house we stayed in, there's a grass terrace, and I was on the terrace talking to another female officer that I reported with, and she had left to go do something, and Commander Wiley came out and he approached me and said, "I'm so sorry," or something to that effect-- I can't remember the exact words--but he came up to apologize, and I still hadn't even--I was still trying to get over the fact that it had happened. I couldn't even comprehend it, so I just--I said, "Excuse me" very forcefully and bee-lined straight to--back up to my room before I started crying again.

Q. Now, following this incident, eventually the ship got underway again, correct?

A. Yes, sir.

Q. And you're still on deployment?

A. Yes, sir.

Q. And you still have your duties as the--as an officer, correct?

A. Yes, sir.

[END OF PAGE]

Q. What impact, if any, was--did what Commander Wiley do have on your comfort on the ship or--or your ability to perform your duties?

A. On the ship itself it was really difficult. I--I was able to get my job done and stand my watch and do day-to-day activities, but behind closed doors and even during the things, I--it was really hard for me to keep myself composed because I never really had a chance to go talk to any of my friends, any of my family, anyone at all. So I had a really hard time adjusting, and I also lived in forward O' country. There's a bunch of staterooms in the forward section, and in that that area there's a "T" and at one--at the--the top of the "T" the CO's stateroom is there--or cabin is there, and so he was in the same living space as me, so any time I saw him, I would freak out and have trouble breathing, like panic attacks, and I'd actually have to go to my state--my stateroom and compose myself before I could go out again. I'd have to sit down, like put my head between my legs and--sometimes it took a couple hours, sometimes it only took, like, 10, 15 minutes, but----

Q. Did you change your routine on the ship at all?

A. Yes, sir, I started--like I said, it was a "T" at the top, so instead of going the way towards his stateroom, which is the more convenient way towards--towards my workspace, I started going the

other way, and also I started using the other ladder well up to the bridge where I--which is where I stood watch.

Q. How about meals? Did you adjust your routine?

A. Yes, sir. I started eating more on the mess decks vice the wardroom, or I would eat early or really late to make sure that I was not in the same room as Commander Wiley for extended periods of time.

Q. Did this impact your ability to interact with other officers in the wardroom?

A. Skipping out on wardroom meals, I--I think so, because that's the one time you really get a chance to sit down and talk with them. You're not supposed to talk about work in the wardroom. Sometimes it happens, but it's--that's the time where you kind of get to decompress and just have normal conversations with people. Otherwise, where I work, it's very--I only have one workspace, so I only see the officers that would come in there, so I really didn't interact with many officers after that.

Q. Ensign (b) (6) at some point when you're back on the ship and it's underway, you're notified that there's a safety meeting with the Commanding Officer, correct?

A. Yes, sir.

Q. And why were you involved in the safety meeting?

A. I was the Assistant Safety Officer. My Department Head, Lieutenant Zamberlan, was--he is the Safety Officer, but I basically

ran the program because it's--that was just one of the responsibilities I had.

Q. Who scheduled the meeting?

A. The Commanding Officer, sir.

Q. Was it ever rescheduled?

A. Several times, sir.

Q. Did you want to go to that meeting alone?

A. No, sir, I specifically asked Lieutenant Zamberlan to come with me.

Q. After you asked Lieutenant Zamberlain to come with you, was the meeting rescheduled?

A. Yes, sir, it was rescheduled to a time when he had watch.

Q. And who rescheduled it?

A. The Commanding Officer.

Q. Did you end up going to this meeting?

A. Yes, sir. I didn't have a choice.

Q. Where was the meeting?

A. The meeting was in his--the CO's cabin, sir.

Q. Would you tell the military judge about the meeting, please?

A. Yes, sir. During the meeting, ma'am, I was--we went to the meeting, spoke about safety--spoke about one of my Sailors, but then at a certain point, Commander Wiley kind of changed his posture, kind of like it is right now, [referring to the accused's posture at the

defense table] and hands had in his face hunched over, and he started saying--started apologizing and saying--specifically, he said, "I pray for you every night, and I've found God again, and I'm an alcoholic," and just--he started kind of--he never talks about the actual situation, but he talked about that he had started drinking when he was a department head and that he was sorry for what he did to me, and that--the conversation kind of led into the fact that ended up--we kind of came to an--an agreement.

He said something to the effect of "I'm going to stop drinking. I'm going to not let this happen again," and I reaffirmed the fact, "So this will never happen again," and I kind of said it with the--authority in a way to try and make sure that I--this was, for sure, never going to happen again, and I specifically said, "It's against my nature to not come forward."

Because of the fact I went to the Naval Academy, I'm very opinionated in--in these kinds of situations, and it was just really--it was hard for me, but I felt like we came to this--this agreement that he wasn't--this wasn't going to happen again. He was going to fix himself, and then for that I wouldn't come forward.

Q. Ensign (b) (6)

A. Yes, sir.

Q. What's going through your mind when you make that conscious decision in Commander Wiley's stateroom not to go forward?

A. What's going through----

Q. What's motivating you to do that?

A. The motivation for that is a million-and-one things, but mostly the fact that he said it would never happen again. It was-- that was the most important thing to me is to make sure that nothing like this could happen to anyone else.

Q. How much longer was the deployment after that meeting?

A. After that meeting? It was February, I think, so we were deployed until the end of March.

Q. Did you have a chance to observe Commander Wiley's conduct during the remainder of the deployment?

A. Yes, sir, the remaining port visits.

Q. How did he act?

A. I did not--whenever I saw him, he was not drinking. He did not participate in any more of the admin rooms that the wardroom got, and from what everyone else said, he hadn't been drinking except for there was one night where--in Thailand, where he had come into the admin just for the evening, but he didn't stay and didn't really act out--outlandish.

Q. So you felt he was sort of keeping up with your bargain.

A. That's what it appeared to me, sir.

[END OF PAGE]

Q. Ensign (b) (6) I want to fast-forward to April of 2011, late April; where were you at that time?

A. At that time I was at a SWOS ASAT course in Newport, Rhode Island, sir.

Q. At some point were you notified that Commander Wiley had been relieved as Commanding Officer of the MOMSEN?

A. Yes, sir. Commander Bodvake, who was the CO when we originally reported, the CO right before Commander Wiley, pulled myself and two other ensigns into his office who were also at the course, and he showed us the article and told us what had happened.

Q. What was your reaction?

A. I just wanted to get out of there as quickly as I could because it was another shock-and-disbelief moment that--I just didn't know how to handle myself at that point, sir.

Q. How did it make you feel to know that Commander Wiley sexually assaulted another member of the crew?

A. I felt extremely guilty, sir.

Q. Why?

A. Because I felt that--there were two--the guilt came from two specific things: one, I felt like if I had been there, he wouldn't have been drinking, and then this wouldn't have happened; and then I also felt guilty that if I had come forward this wouldn't have happened.

Q. How often do you think about your decision not to report Commander Wiley?

A. Almost every day.

Q. What type of emotions do you feel?

A. To not report him? Almost every negative emotion you can think of; there's no positive ones with it. And it ranges from day to day.

Q. Do you think his position of--as your Commanding Officer influenced your decision not to report what had happened in January?

A. Yes, sir.

Q. When you did decide to report, where did you do that?

A. I waited until--well, Commander Bodvake actually--I had walked out of the meeting with him abruptly, while he was talking to us, because he--he could tell I was getting upset, and I went back to him and spoke to him about it again, and--or I sp--went to apologize to him for walking out. But after that, he--he told me that I--that he could tell something had happened or something was wrong in general, so he said, "You know, it's wrong."

And so after that I went--and we were there for another week. I kind of talked with some people I knew, and then I went back to the ship, and it talked to my XO, told him I needed to talk with NCIS, to please get me in contact with them. He set me up with a

meeting with an NCIS agent, and we--I met with him and gave a statement, sir.

Q. Now, eventually, you made a recorded phone call to Commander Wiley, right?

A. Yes, sir.

Q. Was that an easy task for you to accomplish?

A. No, sir.

Q. Why?

A. Because I had to speak with him, and I also had to have a personal part of my life recorded, and I needed to--I had to confront him about just what had happened in general, bring it up again, sir.

Q. Now you used the term "part of your (sic) personal life." What do you mean by that?

A. I mean I think that getting sexually assaulted is fairly personal.

Q. Do you talk about it?

A. No, sir.

Q. How many close friends do you go to to talk about this with?

A. I have about two, sir, maybe three.

Q. Is it easy for you to be in this courtroom with Commander Wiley?

A. Not very, sir.

Q. Now you chose to remain onboard the MOMSEN following your reporting, correct?

A. Yes, sir.

Q. Why did you choose to do that?

A. I chose to remain on the MOMSEN because he is no longer on it, so that wasn't an issue, but also my--my personal life, I really don't want people on the ship knowing about it. They--they still don't know about it, or they might at this point, but they didn't know about it then, so I wanted to make sure that nothing changed. And in Everett, there's only one other destroyer, so if I went over to that other destroyer there would be the questions of, "Why did you move?" "Why did--there must be something going on," and I think it would have gotten dug up at least, or I would have gotten a lot of questions.

I was also really getting close to getting my qualifications, and I really didn't want to disrupt the fact that I-- I had worked so hard for so long, and I didn't think that Commander Wiley should affect my career in that aspect.

Q. Did you believe that reporting it could have an impact on your career?

A. Absolutely.

Q. Now it's been almost a year since you were assaulted. How has it affected you as a person outside of being an officer?

A. As a person, I--I have a really hard time with--I--I mean I still kind of have a hard time talking about it. I don't talk to people about it. I try to keep my personal life as private as I can, especially at work, so I see the--it--it just--it affects my daily life. It affects my decisions, it affects my relationships with my friends because they don't really understand, and I can't really tell them about it. And my friendships with people on the ship, they--they don't know, so--definitely a lot of--it--it goes into the trust thing, I guess, with----

Q. Let's--can we go into a little more detail. Let's talk about some social interactions. Do you still go out and socialize at----

A. No, sir. I mean I still go out, especially with my friends, but definitely cut down a lot on what I--I used to go out--Naval Academy, you don't really get weekdays off, so I used to try to at least, like, go to dinner and stuff like that during the week. I definitely don't do that anymore.

I don't go to dance clubs unless my friends invite me, and that's only when they're really adamant about it. Even there, I don't--I don't go on the dance floor; I--I just kind of stay and watch and socialize and hang out. If people approach me, like people

I don't know, I don't trust, I am very--I say things that dissuade them from wanting to talk to me. I'm kind of rude in a way.

Q. Were you that way before this incident?

A. No, sir.

Q. Were you this guarded before this incident?

A. No, sir.

Q. When you came into the Navy and you took your commission, what--what did you major in at the Naval Academy?

A. I majored in ocean engineering.

Q. How about your career aspirations when you accepted that commission? What--what did you want to see your--where did you want to see your Navy career go?

A. Well, I'm the nuke-SWO option, so I'm going to Nuclear Power School in April, and what I really wanted to do from there was go to--go into alternative energy, and I felt the Navy was a really good way to do that because of the research potential and just, in general, things that we're capable of doing.

Q. Did you want to make the Navy a career?

A. I was thinking about it, yes, sir.

Q. Is your--has--have your career aspirations or--have--has that been changed by Commander Wiley's misconduct?

A. Yes, sir. I'm not really sure I want to stay in past my--my commitment at this point. I--it makes it really hard for me to--to

make that decision right now with the limited interaction I've had with--with our leadership, sir.

Q. Is that in your daily work routine you see certain things that remind you of what happened?

A. Yes, sir. I still have daily reminders, especially when--when I'm at work it's really hard for me to not think about it. The fact that going through the hallway, I think of the fact that I have panic attacks. I see my CO, and he's a--he's the same. He's big, not as big as Commander Wiley was, but he's still bigger. I see him in his MWUs with his--his silver leaf, and I--I--all I can think of is Commander Wiley and--specifically his hands, so it's really hard for me to kind of move past it when I start having these, like, flashbacks, and I--so I think about it a lot.

It--I don't really make friends at work. I definitely keep my private life very private now. I--like I said, no one on the ship really knows what's going on, so this case in general has been really difficult on my professional life because I was forced to tell other people I didn't want to, including my Department Head, because I had to explain to her why I keep having to go to meetings, and she wanted to know why I had all these meetings, and I couldn't really kept--keep saying "because," so----

Also, coming down to San Diego, I almost got left behind, as well, when the original court date was earlier this month, and--

because we were in San Diego, and it was just less expensive to leave me down here--or no, the time commitment, we would have pulled in the day we would have had the court case, so the 17th, and--so they were going to have to leave me behind, and everyone kept asking why I was staying behind, why I was staying behind, and I wasn't comfortable telling them, so it's definitely had a huge effect on my daily life and my interaction with people, especially when the article came out on Wednesday. I was on watch, and the people on watch started talking about it, and it--it's just difficult for me to keep my personal life personal.

Q. What plans do you have in the future to deal with what happened?

A. What plans do I have? At this point, I just want to kind of get this court case over with and move on. I mean I'll never really move on from what happened; it's going to stay there. But hopefully, my experience with this will allow other people to--to come forward maybe if--if it gets big enough. If it doesn't, then--well, it--it doesn't really matter, but specifically, I really hope Petty Officer **(b) (6)**--I--like--she's my biggest concern. She's the real reason I, like, came forward and everything. So the fact that--the reason I'm testifying is so that she can see there are good leaders out there, and there are people who are--there are people who are capable of doing good things. I'm helping her out. I'm helping people who

don't know how to stand up for themselves. So that's what I hope we get out of this.

ATC: Thank you, Ensign (b) (6)

WIT: Yes, sir.

MJ: Defense, do you have cross-examination?

DC: Briefly, yes.

MJ: You may proceed.

DC: Good afternoon, Ensign. I just have a few questions.

WIT: Yes, sir.

CROSS-EXAMINATION

Questions by the defense counsel:

Q. Relating to the time, you know, before New Year's Eve in the Seychelles, you got to the same--you got to the ship about the same time as Commander Wiley?

A. Yes, sir, I'd say within a month or so.

Q. You'd agree that he was very much liked by the crew?

A. He was--I didn't see any issues with him. The crew--the crew themselves liked him. The wardroom had some grumblings, but I really didn't see a whole lot of either because I was so new.

Q. You--did you think he was kind of a--a crew's CO?

A. I would say that he definitely--he played towards--towards the crew more than anything else, sir.

Q. And I recog--I recognize that you're a fairly junior officer, but by your assessment, you would assess him to have been an effective CO in terms of mission accomplishment from what you saw during your deployment?

A. [No response.]

Q. He got the job done?

A. Umm----

Q. Did MOMSEN have a successful deployment?

A. Sure, the ship MOMSEN had a successful deployment [crying].

Q. I recognize that--I don't--I don't think there's anybody here that----

A. Well, I mean--I guess the deployment itself wasn't successful if you come back and on the last station that you're in to offload ammo or--we'd come back and then we'd go out to offload ammo, and everything is destroyed by one moment, and trust by the crew is completely destroyed.

Q. I recognize that. It was a successful counter-piracy deployment; would you agree with that?

A. I would--I don't really see the reports, but I didn't see any problems with what had happened, sir.

Q. You yourself qualified OOD?

A. Yes, sir.

Q. And 3 weeks ago, now, you got your SWO pin?

A. Yes, sir.

DC: Congratulations on that.

WIT: Thank you.

DC: Thanks for your testimony.

WIT: Yes, sir.

MJ: Does the government have redirect?

ATC: No, Your Honor.

MJ: Does either side desire the witness held subject to recall?

ATC: No, Your Honor.

DC: No, Your Honor.

[The witness was excused and withdrew from the courtroom.]

ATC: Your Honor, at this time we'd ask for a brief health-and-comfort recess?

MJ: What do you have left in your case?

ATC: Ma'am, we intend to play Prosecution Exhibit 2.

MJ: Is that the last thing you have?

ATC: Yes, ma'am.

MJ: And that's, you said, 10 or 15 minutes?

ATC: It's 11 minutes, ma'am.

MJ: How much time do you need to--time for a comfort break and to set it up, so is 10 minutes enough?

TC: It is--it is. Actually, 5 minutes would be fine. I just want to fast-forward past the phone number so it doesn't play published.

MJ: Well, we're going to need to change out court reporters anyway, and I was thinking of taking a comfort break before the defense began their case, so we'll just do that now, so let's take-- 10 minutes, is that enough?

TC: Yes, Your Honor.

MJ: Court's in recess for 10 minutes.

[The court-martial recessed at 1558 hours, 28 October 2011.]

[The court-martial was called to order at 1623 hours, 28 October 2011.]

MJ: Court will come to order. All parties present when the court recessed are again present, with the exception of our court reporter is now LN1 ^{MAG. 24} ~~XXXXXXXXXX~~

You may proceed, government.

ATC: Yes, ma'am, at this time the government----

MJ: And she has previously been sworn.

Go ahead.

ATC: At this time the government is going to play Prosecution Exhibit 2, and for the record we are starting at the time of 48 seconds into the recording.

MJ: And this is just an audio, right, not a video?

ATC: Yes, ma'am.

ATC: [Plays Prosecution Exhibit 2.]

TC: Your Honor, the prosecution has nothing further.

May I approach the court reporter and hand off Prosecution Exhibit 2?

MJ: You may.

TC: I'm now handing Prosecution Exhibit 2 to the court reporter [hands exhibit to the court reporter].

MJ: Defense, you may proceed with your case.

CDC: Your Honor, first I have some exhibits to offer into evidence.

MJ: Very well.

CDC: We have ~~previously marked~~ Defense Exhibits A through H, H being Dr. Wood's report, which I have provided to the government, and ask at this time that the words "for identification" be stricken and these exhibits be ~~accepted as~~ evidence.

MJ: [Reviewing the defense exhibits.] You said that was through H?

CDC: Through H.

MJ: Any objection from the government?

TC: No, Your Honor.

MJ: Defense Exhibits A through H for identification are received into evidence; the words "for identification" will be stricken.

CDC: And we previously had Dr. Cunha testify; will you be considering that----

MJ: Yes.

CDC: ----in sentencing, and at this point Commander Wiley wanted to address the court in an unsworn statement.

MJ: Very well.



ACC: Your Honor, thank you for the opportunity to speak. I am grateful for the chance to be able to share my perspective on events after 6 months of sobriety and much clearer thinking than I've been able to do in many, many years.

Even in my wildest dreams, I never envisioned that I'd be standing before you today. Until this incident, other than the occasional speeding ticket, I have never broken a law. I have always believed in the law and have done my utmost to obey the rules and regulations established for me in our society. I still have a hard time accepting that I am capable of the crimes I have been accused of, but I now understand that I am fully responsible for them. I and I alone am responsible and accountable for my conduct and must face the consequences of my actions; however, there are some people in my life I would like to address.

To my family, and especially (b) (6)

(b) (6) I've worked tirelessly for almost 20 years to defend you and your liberties, and to provide for you, and you have always stood by me. Separation from you has been nearly unbearable at times, as have the stresses and long hours required by this career. I thought I needed alcohol to get me through these trials and tribulations, but now I realize it was your love and support that has been sustaining me. You've put up with my drinking because you saw the stress I was under and my deep-seated unhappiness, and you thought it would provide me some relief. You saw the good in me when I could not see it in myself. If only I had realized then what a gift I have in you. Unfortunately, I started drinking before we met, and so I stayed with my old patterns instead--instead of realizing how much life meant to me with you in it and ~~enjoying~~ it. I can never truly make amends for what my drinking has put us through, but I can promise that together we can achieve a new future, a sober future, and one where we can achieve tremendous happiness together. My life has improved immeasurably being sober, but this is only because it has made me realize how beautiful and precious you are, and because I now realize more so than ever before that you, Nia, Tommy and Stewy are the only things that matter to me.

To the victims, I cannot apologize enough or be more ashamed of my actions. I take full responsibility for them, and if

there were any way to take them back, I would in an instance. I will have to bear the guilt and shame for these events for the rest of my life. I can only hope that someday you will find it in your hearts to forgive me. I also hope that you come--can come to understand that my actions were the results of my alcoholism; I would never have done anything so reprehensible while sober. While this does not absolve me of any of my responsibility, I know now why these things happened and how to prevent them from happening again. I'm an alcoholic, and have had to admit that I am powerless over alcohol. I cannot take a single drink; the potential risk is too great, the effects far too devastating. I did not understand how bad my disease was until I received treatment, and I'll have to use my higher power and my family and Alcoholics Anonymous for the rest of my life to stay sober. But I  grateful to you for helping me to realize that I  I did not realize nor could I accept that I was an alcoholic until I hit rock bottom. Thanks to you, I've had to face my condition head on and start my life over. You probably saved my life and, potentially, the lives of others. I can never thank you enough for this. I am just so sorry that my disease affected you so horribly, and will always realize that the cost of my sobriety is a debt that I can never repay.

To my peers: I know my actions have surprised and disappointed you all. I could have and should have reached out to

you more often instead of reaching for the bottle. I should have done more to protect myself and the brotherhood we shared. We all dealt with maybe the same battles and stressors, but I feel--I failed to deal with them in the right way. However, I know many of you may be struggling with the same demons that have haunted me for years. I can only offer you my support and an example for a way out. Alcoholism is an insidious and cunning adversary, and it may be creeping up on you as it did me. If it can get me, it can get anyone. But you don't have to find out the hard way like I did. Let me call the turn for you. I implore you to do an honest self-assessment and seek **help if you see--suspect** you have a problem. If my last act of service **can be to help** even one of you find the road to recovery, I will be **satisfied** that some good has come from my shortfall.

To my crew: **[REDACTED]** with you, and for this I make no excuse or mitigation. **[REDACTED]**. After all the times I exhorted you not to let alcohol get the best of you, it is I who failed and let it get the best of me. I will never forgive myself for letting down the bravest 300 soles I ever served with. I realize that many of you will never forgive me for the shame and hardships I have put you through; I can only ask you to remember what we accomplished on deployment with pride, and know that our courage under fire made the world a better and safer place. We saved over 30 mariners at sea,

interdicted more than 20 pirates in a pirate-logistics vessel, destroyed two pirate skiffs and countless pirate equipment and weapons, and rescued 24 merchant seamen from certain captivity at the hands of pirates. We held the line against rogue dictators, pure competitors, terrorists and pirates when few of our countrymen were willing to do so. No one can ever take that away from you. I also hope you can understand that I would never have done anything wrong on purpose; it was my drinking that led to my downfall. I earnestly hope that you can learn from my example, both to avoid substance abuse on your own and to provide an example of admitting your failings and recovering from them. I will rise above this, and I hope that someday you can put this behind you, too. I will never forget you. It is your example which makes me even more committed to my recovery and my goal of helping others to do the same.

To my Navy: I have served honorably, selflessly and faithfully for almost 20 years. I have risked my life and accomplished every mission assigned successfully. I brought all my Sailors home alive. Leading Sailors in combat and other operations at sea has been the most Socratic, fine experience of my life, aside from being with my family. However, I know that I have forfeited the opportunity to ever do this again. I will never again lead troops in combat, nor should I. I could never fully regain your trust and confidence. This has been a most bitter pill and one that will haunt

me to my grave. Losing my command was like losing my right arm. My most heartfelt desire now would be to continue to serve my nation and my Navy tactically and operationally. I would jump at the chance to train others, run exercises, refine tactics, whatever I could do to make our Navy more combat-effective. I know commands such as Tactical Training Group Pacific and COMNAVSURFOR are chronically undermanned, and I know my experience and proven work ethic could prove extremely valuable to such a command; however, I accept that this, too, is unlikely and will do the best I can to move on and continue to serve my country in other ways.

The bottom line is that I'm an alcoholic. That has been the most shocking ~~core-making~~ revelation and the most difficult admission of my life. ~~It is not that~~ I would not have been able to recognize or make 6 months ago, but now I know it is the truth. I have a life-threatening ~~and lifelong~~ disease, one that there is no cure for. The best I ~~can do~~ keep it in remission. Like a diabetic, I can only treat my condition, but I have found a treatment that works: Alcoholics Anonymous, my higher power and my family. As diabetics have insulin to keep them healthy, I have the AA program. Six months ago I recognized for the first time that I was a drunk and an alcoholic. Now, after treatment and working the 12-step program, I can gratefully say I'm an alcoholic, but I am no longer a drunk. I am extremely grate--grateful for the treatment I have received from

the Navy for my alcoholism, as well as the kindness and consideration I have received for my well-being, as well as the well-being of my family. I have often felt it was more than I deserve. I know that without this treatment, I would have no hope and could not possibly be sober today.

You may not be able to fully understand what a tremendous gift sobriety is unless you have experienced alcoholism firsthand. I can assure you that this treatment has been a life-changing, maybe even lifesaving event. No matter what else happens, I will always remember how the Navy saved me from a miserable life of alcohol dependence and abject hopelessness. Now, thanks to you, I can go back out into the world **sober and** again be a productive member of society.

I did not ~~become an alcoholic~~ overnight; it was a slowly-progressing and insidious **disease** that gradually began to take over my thinking, influence **my daily activities** and take over every aspect of my life. I ~~realize now that~~ I was integrating alcohol into every activity. I realize now that I was integrating every activity in my life with drinking. My mind would rationalize almost any thought that got a drink in my hands.

I drank to forget the horrors I've seen over a 20-year career filled with multiple deployments in combat zones and operational accidents, to fight the stress of surface warfare and the

frustration of strategic decisions that seem to be eviscerating the Navy I so love.

I drank to fight the nightmares, to help me sleep, to quell the fears I felt every day: my fear of failing; of letting down my shipmates; of making a mistake that would hurt my crew.

I drank to kill the pain of prolonged separation from the family I love so much, and the utter loneliness I felt as I became more senior, and the sheer boredom of long periods of--at sea or away from home.

I drank to try to wash away the memories of abusive leaders who berated me, who found my every mistake or shortcoming and turned it into an opportunity for biting ridicule.

But I also started to drink to celebrate, to socialize and to feel happy. Every good or bad, became an excuse to drink. It had come to be the point where the only time in my life I was truly happy was with copious amounts of alcohol coursing through my veins, washing away all the fears, personal defeats or worries I face. I came to believe that I was successful because of my drinking. Alcohol was the only thing keeping me functional and keeping me from suicide. In fact, I was successful in spite of my drinking, and I could not see how terribly alcohol was unraveling my life until it nearly destroyed me.

Sadly, I fear my story is not unique. I grew up in the Navy, watching my many peers and seniors I respected drink their troubles away. For many, I'm sure this is not an issue. They were not predisposed to alcoholism as I have come to discover that I was, but I fear many others continue to suffer in silence. I turned to alcohol to deal with my problems instead of turning to a chaplain or a mental-health professional. Many of my peers have chosen to do the same for the same reasons I did: because asking for help is perceived by many in the fleet as a sign of weakness, or due to fear that such a request will call into question their security clearance or fitness for command.

Or it may simply have been due to pride or lack of knowledge about programs ~~that were~~ available. I have never heard of many of the programs ~~and~~ those with substance-abuse issues until I was in treatment ~~and~~ and I was a commanding officer. Perhaps the reason for **this was the way** the alcohol/drug and program information was delivered to me during department-head, Executive Officer and command-pipeline training. Mostly, I received very cursory, broad-stroke descriptions of key programs from those who perform such duties as a collateral assignment vice true subject-matter experts.

For example, the instructor who taught my PCO class about Navy drug and alcohol programs was a retired chief petty officer who

was not prepared for his brief, started late, and was not able to adequately answer many of our questions. His performance reinforced an impression in many of our minds that the Navy is paying lip service to many of these programs, and made me feel like many of my peers are checking the box when it comes to drug and alcohol programs. We are making great strides regarding PTSD recognition and treatment, but I fear we are not making such good progress in our drug and alcohol programs.

Your Honor, I recognize that this may be out of your purview, but I implore you to try and grant me an opportunity to help our Navy when it comes to alcoholism. If given the opportunity, I earnestly desire some **small way** to repay this debt of gratitude I have to the Navy for **helping me** treat my alcoholism. If I could in any way use my record **to help** others or to speak as a credible witness **to** alcoholism, I would relish the chance. I know that **my** **what** I have learned in treatment could have an impact on our next generation of division officers, department heads, XO's and CO's to inform them of the potential dangers associated with poor stress management and substance abuse. My service record speaks to the fact that I was very successful in these assignments. I can relate to the experiences and stresses these officers will face. More importantly, I was one of them. My experiences can help them recognize and, ideally, overcome the same

in their own lives. My greatest desire is to help my fellow Sailors prevent making the same mistakes I made. I know that my story can help save careers, enhance combat readiness and improve the quality of life for Navy families. It might even save lives.

I have submitted to you an article that I wrote for Proceedings on the subject. The article will be published in the December issue, and I hope will be the start of a larger effort to help others face and beat their problems with drinking. I've developed an inspirational wristband that has helped me and several others in treatment maintain their sobriety. I've also started a website and am working on a book that I hope will get my story out to those who are suffering.

If permitted to separate honorably, I intend to use the GI bill to pursue a master's degree in social work and a doctorate in psychology so that I can help others find sobriety--find the sobriety, peace and security that I have been able to find.

As horrible as this experience has been for all concerned, I am determined to make something positive come out of it. A big part of any alcoholic's recovery is repaying their debts and helping others to recover. I want to do this for my shipmates and their families. The enormous additional stresses we are putting on the force through reduced resources, increasing demands and ever-increasing OPTEMP and the associated family separation, not to

mention the stresses due to combat with an insidious and elusive foe are driving our Sailors and Marines to abuse substances in record numbers. I humbly pledge myself to do anything humanly possible to help fight this trend and protect our Sailors and Marines from alcoholism, drug abuse and, ultimately, themselves. I'm confident that through these efforts, I can turn an extremely negative event into a positive outcome. It may sound cliché, but if I can save one life, repair one career, I feel I will have done a great service to our Navy and our nation.

This said, I am still fully aware of my absolute accountability and responsibility as a commanding officer. I knew exactly what I was getting into when I uttered the phrase, "I relieve you, sir." I was a good Captain. I took my crew into harm's way and returned them all home safe and victorious. However, I am equally aware of how badly I failed these men and women, who I loved as much as my own family. I accept the success and privileges of command without taking equal responsibility for my failings. I am ready, willing and able to accept whatever punishment you deem appropriate, and will do so with the most dignity, courage and faithfulness that I can muster. I will execute your assignment with the same attitude and energy that I have every other assignment in my career.

I do ask that you take into consideration my service to country in peace and war, and additionally I ask for consideration for my family. They have served as faithfully as I have over extended deployments and assignments away from home. They have gone through numerous moves accused became emotional and natural disasters like Hurricane Katrina, all in support of my career. I ask that you consider their service, as well as mine, and allow us to retire honorably following my punishment.

I will gladly accept retirement at a lower pay grade, but humbly ask that I be allowed to retire honorably in recognition of my years of service and for the sacrifices my family has made throughout my career. This would allow my wife and children to enjoy the benefits that I believe their service has earned. Please do not hold them accountable for my situation, and please let this story have a happy ending.

CDC: Your Honor [REDACTED] would--I will mark a copy of Commander Wiley's statement and offer that into evidence as Defense Exhibit I, and I have a copy of the Proceedings article marked as J.

MJ: Very well.

CDC: If I may approach?

MJ: You may--are they--they are not marked yet?

CDC: They--these are not.

MJ: Okay, hand them to the court reporter. Let's get them marked.

CDC: [Hands documents to the court reporter for marking as exhibits.]

TC: No objection, Your Honor.

MJ: Okay.

REPORTER: [Marks the exhibits and returns them to counsel.]

CDC: [Hands exhibits to the military judge.]

And the defense rests at this point, Your Honor.

MJ: [Reviewing the exhibits.]

And you said no objection from the government?

TC: Correct, Your Honor.

MJ: Okay, Defense exhibits A and J for identification are received into evidence. Exhibits B and C "for identification" have been stricken.

The defense

Does the government have a case in rebuttal?

TC: No, Your Honor.

MJ: Are the parties prepared to present argument on sentencing?

TC: Yes, Your Honor.

MJ: You may proceed.

TC: For those who are selected for positions of trust, much is expected. For those who were selected for positions of command,

trust, leadership, responsibility and accountability are not only expected, they are demanded.

This case, Your Honor, is about arrogance, it's about authority, and it's about abuse: the accused's arrogance, the use of his authority, the abuse of his authority, and the sexual abuse of two 22-year-old subordinates, subordinates under his command.

Four themes that the government would ask Your Honor to consider in this case:

One, the seriousness of his actions;

Two, the consequences of his behavior, and they are significant;

Three, accountability for his crimes, and they are crimes, they're not incidents.

Four, just  and you heard from them directly.

Nothing less, Your Honor, than a dismissal and 9 years' confinement will send the message to every Sailor in the Navy, to every leader, to every commanding officer, and specifically to every commanding officer that is allowed to command at sea that you're accountable for your actions.

Defense Exhibit C for identification (sic), the letter from Admiral Busby, says he spoke at Commander Wiley' change of command: "Further, I stated that command afloat is the most sacred trust that

our Navy can bestow upon an officer, a job with unequaled responsibility, authority and accountability."

And you also see it in a letter from Captain Good: "special trust and confidence conferred upon an officer serving in such a highly-visible senior leadership position on a warship."

Send a message to everyone that's thinking about taking advantage, to anyone that's vulnerable about forcing himself upon anyone that there is a steep penalty for doing such conduct. Send a message both to the accused and, specifically, to the community in general (sic) that **if you prey upon** those you're entrusted to lead, not only entrusted to lead **but** entrusted to care for, that you forfeit your career and a significant period of your liberty.

A dismissal is a heavy punishment, but it's appropriate. Nine years' confinement is a significant period of time; it's a significant penalty for **the actions**. But it's fair in light of all circumstances, and it **sends the right** message not only to him but to the Navy and every commanding officer and everyone out there that accountability is key, and it came best from the victims as you heard that here today.

The accused violated not just those tenets of command and which he was expected to uphold and--and demanded upon him, he violated the personal dignity, the bodies of two people, beginning with the Ensign, when he raped her. Raped her. He violated her body

by abusing her sexually. That night, Commander Wiley became a sex offender, not an alcoholic, a sex offender, and that's what this case is about. He may not have to register until all of this is done, but he showed his true character that night. His lot was cast when he pinned her to the bar, leaned his body against her, then 235-pound body against her after having chased her all night, after she had done everything she could to get away from him, pinned her to that bar, put his hand up underneath her dress, moved her underwear aside, and stuck his finger inside her vagina, pushed it in and pulled it out for 15 to 20 seconds. He abused her. He sexually abused her. He raped her at that time.

That victim, though, as vulnerable as she was, was forgiving, and she gave him a second chance. The CO that owed her mentorship and not abused her gave a second chance. And that conversation shows [REDACTED]. Alcohol didn't erase his memory. He approached [REDACTED] day because something had happened, and he approached her again in February. And he did apologize, but the victim, Ensign (b) (6) made a decision to live with it internally, which that decision has haunted her everyday since ever since she learned that Petty Officer (b) (6) then Fireman (b) (6) was also a victim of the accused.

If the government were here arguing for a punishment for the rape of Ensign (b) (6) alone, the government would be asking for

a sentence of 4 to 5 years of confinement and a dismissal. That action alone warrants a dismissal and a significant period of confinement. But we're not here for that purpose, Your Honor. We're here not only for Ensign (b) (6) but for Petty Officer (b) (6) then Fireman (b) (6) because he violated that trust, that second chance given to him, when he put his true character on display, and he demonstrated that arrogance, that authority and that abuse when he abused that E-3 in his command on his ship in his cabin.

That night, Your Honor, he became a sexual predator, not just a sex offender, a sexual predator. He preyed upon a second victim. He began preying on her in the back of that van when he put his arm around her and grabbing her shoulders, and told her not once but twice, "You should come home with me." He knew what he was doing. He preyed upon her as he followed her up the brow, as he blocked her entrance as he then went up and shepherded her up and the door, cipher-lock door, took her inside, told her--ordered her to take off her pants, ordered her to kiss him in his cabin, her Commanding Officer, and then picked her up, put her on the bed and began performing oral sex, and you've read the stipulation, Your Honor, followed by digital penetration, followed by then putting his finger into her anus, which caused much discomfort.

The most junior, most vulnerable, most trusting person under his command, when a CO has absolute authority on that ship, all subject to his orders, he not only violated Fireman (b) (6) in the worst ways that he could, but he violated Ensign (b) (6) again by violating that trust and the trust of the Navy, he violated that for not--taking the oath to care for his troops when he chose to, instead, abuse them. His abuse, his arrogance and his authority outweighed alcohol as a factor.

Alcohol is clearly a factor; you can't escape it during these proceedings. But alcohol reveals what sobriety conceals, and that's his true character. He didn't do anything that was not in his character to have done sober. He didn't go out and rob a store because he was so drunk; he did what was within his character, and he chose to drink. And especially the second time. After being put on notice in a huge way, after sexually assaulting and after raping an ensign, after having a conversation about "I'm not going to do it again. I'll pray for you," apologizing, he knew, according to him at that point in time, if he drinks he can't control himself. And what did he do when they pulled into Indian Island? He drank. He chose to drink. That's his arrogance in taking that first drink, of choosing to put himself in that position and then use alcohol as an excuse. And you heard here today in providency that the duty van

made him do it. He probably wouldn't have done it if he would have walked to and from the bar at Diggers.

Let's talk a little bit about the defense exhibits, Your Honor, the record they put in. They put them in as extenuating and mitigating evidence. They're not; they're aggravating. It demonstrates the trust and the training that the Navy has invested in him. He, more likely than not, from a very short period from now, would have eagles on his collar, four stripes on those shoulder boards. He was an incredible officer underway. But instead, he chose--and again, I emphasize "chose"--to throw it away. Probably would have been selected for major command, but instead he chose to throw it away. All those pages of exhibits, those pages of awards and--and fitness reports don't add up to the number of tears shed by the two victims that got on this stand, that they cried for his actions.

Let's talk a little bit about the other exhibits.

First off, you have the article that was just placed in his report. Take a close look at that report, Your Honor. It's very telling of a lot of things we've heard here today:

One, being relieved for an alcohol-related incident. No, relieved for a sexual assault, which had taken place after a rape.

"How did this happen to me? I wondered." He knew how it happened. He wrote this article after the second incident. He

already knew after the first incident what had happened. That's not present in there. That's not taking responsibility for your actions.

And then go on: "end of the line, losing my command, my career, my future, my justification, my dependency, my alcohol intake, my misfortune." His misfortune? Their misfortune is what this case is about. "My, my, my" should be "their, their, their" if we're really going to stand up and take accountability for actions here.

Look at Dr. Wood's report. It's very telling in there, some of the terms: "He's very concerned with the nature of the charges--the legal charges against him," and all of that report is self-serving after he's under investigation, after he's charged with a crime, to get in here today and escape with the minimum amount of accountability possible.

And then let's talk about his family. We're not looking to make this any harder on Commander Wiley's (b) (6) she's a victim in this, too. But this is not an affair, Your Honor, it's an assault. It's a sexual assault, and it's not just one, it's two. All those photographs placed in and family photos, keep focus on the victims. It's about what he did to them. At no time was he thinking about the people in those photos when he was sexually assaulting those victims. At no time was he thinking about those victims when he was sexually assaulting them. He was thinking about himself, the "me, me, me,"

the "I, I, I" as he was trying to satisfy his sexual lust and desires as he violated their bodies against their will. That's the picture to take into deliberations. That's the framework to put his sentence in in this case, Your Honor.

You heard the aggravation evidence from the two victims, the tears in the head over an hour when it was supposed to be a nice liberty port to relax and decompress. Spending an hour crying because your Commanding Officer just sexually assaulted you.

You heard about the panic attacks onboard the ship, a warship a sea, in a combat zone, and she had to see her CO every day and take extra efforts to try to avoid that just to maintain composure, and even then she couldn't do it. She'd have to go to her stateroom and regain composure due to the panic attacks. She took herself out of the wardroom, the one place, according to her, that you get to decompress. She's having dinner down on the mess decks to avoid contact with her Commanding Officer, and she's blaming herself, her words "extremely guilty" the whole time, and again, probably cost us a good naval officer. She doesn't know what her future holds, but it's not nearly as bright as what it did before (sic). And you heard her: she never really moved on from what took place.

You also heard Petty Officer (b) (6) She respected him. He was a professional presence to a recruit. That shows just the level that she looked at him from. She was just a recruit. Trapped,

nervous, confused, shaking, can't breathe very well, hysterical; you heard her. You saw her, Your Honor. She maintained great composure in here, but probably the toughest thing--with the exception of the timeframe that she was in his cabin--she's ever had to go through in order to come in and confront her accuser (sic). She'd get so upset she'd not want to do anything, and that's today, that's months after this event took place. And onboard MOMSEN, what? She was too afraid to go back, so she transferred to USS SHOUP.

Let's talk about responsibility, and I alluded to it earlier. But that intercept, that oral-wire intercept, again, "me, me, me." "I'll take the fall for my crime." It's not one crime; it was two. Sounds very accommodating to say, "I don't want you to get any of this on you. I don't want you to have to go through this." That was not his intent; it was about him. He was the Commanding Officer. He had authority to--he imposed NJP, he was a convening authority, he knew the punishment for the crime he is caught redheaded--handed on with Fireman (b) (6) would increase if Ensign (b) (6) came forward. That was his motivation in encouraging her in that intercept, not that it would affect her; it was about him. And that's all we've heard throughout this proceeding is "me, my, I."

183 days sober; she's 301 days abused, and Petty Officer (b) (6) is 186. "Trying to look out for them." "Demonstrate how much

I cared for them." Guess what? Don't assault them. That's how you begin that process.

"I was verbally and emotionally abused by a CO." They were both sexually abused by theirs. Significantly outweighs any verbal and emotional abuse from a commanding officer.

"Feared the ship would be in danger if she came forward." That's not the motivation.

It was, quote: "inappropriate contact between us." No, sir, it was rape.

And then to apologize in his unsworn statement to the victims because they helped him out?

That he was a good Captain and returned the ship safely? No. He didn't. And you heard it directly from Petty--or Ensign

(b) (6) Your Honor.

He still doesn't get it. He deserves--in fact, he earned, and justice demands, Your Honor, 9 years' confinement and a dismissal from the naval service. Nothing less is appropriate in this case, and so the government asks that you award it, and you send a message to him, you send a message to his victims, to those he commanded onboard USS MOMSEN, and to the Navy at large that actions have consequences, and these were serious actions: a CO sexually abusing not one but two of his most junior subordinates. Hold him

accountable for his actions. Give him 9 years' confinement and a dismissal.

Thank you, Your Honor.

MJ: Defense, you may argue.

CDC: Thank you, Your Honor.

Your Honor, Commander Wiley said it best in his statement: he--he alone is accountable and responsible for his actions. Coming in and pleading at a general court-martial, you cannot be more accountable. Again, he--he voluntarily came in, he--he answered all your questions, he pled guilty. It was still probably the most difficult time of his life because he knows he has hurt so many, including (b) (6) his Sailors, but he also knows that this case probably saved his life. He was traveling down a road of--of self-destruction.

There is absolutely no excuse for this conduct, and we agree with a lot of what Commander Crow is saying. Commander Wiley has hurt his victims; he knows that. And he's been living with it every single day, and it'll carry on for the rest of his life. There's absolutely no excuse at all. But in looking at this case, we're going to ask you to look at the totality of the circumstances, and--and one thing that is evident in--in--in these sorts of cases is alcoholism does not discriminate. It doesn't discriminate against race, gender, sexual orientation, rank or intelligence. Give you the

most gifted, intelligent senior officer, commanding officer in the Navy, you are just as susceptible to alcoholism as anyone else. It's tragic. And you have a report from Dr. Wood, who has spent a considerable amount of time meeting with Commander Wiley, and he describes the situation as "the perfect storm." It is absolutely not an excuse. It's tragic, and it's something that Commander Wiley, at this point in his life, has accepted wholeheartedly. He is looking forward to moving on with his life and continuing to contribute to society, support his family, be a good husband, a good father, and we'd--in looking at this case, we'd--the tragedy of all this, of course, are the victims, are the family. These terrible events truly do not define who Commander Wiley is.

When you look through the--the number of exhibits, you will see, and I'll--and I'll quote some of the letters we have received, people who have served with Commander Wiley.

We have a letter from a--from a YN2: "Commander Wiley was nothing but a professional leader who cared greatly about the welfare and morale of his crew." It's absolutely true. That rings true through 19 years of service. Commander Wiley is absolutely mortified that he's here today. He cannot believe it. But he has a disease, a serious disease, and it's a disease that, you know, we had our--Dr. Cunha testify earlier, the Navy recognizes that we have a very

substantial program here, but he does suffer from a disease that doesn't excuse the misconduct, but it explains it.

You will see a--a letter in there talking: "As Operations Officer, Commander Wiley served honorably and with great distinction, epitomizing our Navy core values of honor, courage and commitment. Unquestioned, his leadership and dedication, master at motivating Sailors to do the best paved the path of our ship's success."

And all of his fitreps for 19 years, you can see that he--he has been our best. He has cared deeply about his Sailors, and that's why it's so painful for him to sit here today and realize how much he has hurt his Sailors. He knows that. He is not here to offer any excuses; he's here to take full responsibility and accountability.

When you look through his 19 years of--of--of--of--of fitreps, you will see consistently that he was the Number 1 leader, Number 1 tactician, "the glue that held the KIDD together for 3 years to include Hurricane Katrina."

"The impact he's had on the crew's morale and the quality of service has been incalculable. His leadership was vital in overcoming command-climate challenges imposed by Katrina delays."

He's consistently and always cared for his crew, and that's why this makes this a--a tragic case. So why? Again, alcoholism does not discriminate.

And Your Honor--and in handing down an appropriate sentence, we'd ask you to consider, you know, his 19 years of service, consistently caring for his shipmates and--and recognizing, yeah, this is a--a real disease, perhaps one we need to embrace and understand more, but what's all the more important is this case has saved Commander Wiley's life. He has embraced recovery. You heard Dr. Cunha come in and say that he wouldn't be here unless he thought otherwise (sic) that Commander Wiley has--has really--has taken on recovery, and saving his life with the--with the same intensity as he had serving for 19 years.

He's--undoubtedly, he will succeed. He--he--he's blessed with a wonderful family, who's here today: his father, his--his **(b) (6)** you have the pictures of his family. He's--he's very much a family man, and again, sitting here we--we scratch our heads and say how could this happen? How can this happen? It's not an excuse, but alcoholism is a real disease, and I'd ask you to, when looking through Dr. Wood's--he's got an extensive report, extensive testing, you'll see that, you know, the perfect storm is alcoholism.

There's--there's--he's not a--a diagnosed sexual predator; that was addressed in the report. There's no other Axis-II personality disorders; there's no other--any other sorts of--of diseases or--that would impact his ability to continue with his recovery, and I think with the--Commander Wiley is--couldn't be more

thankful for having (b) (6) and his father and his friends who have--one friend who flew across from (b) (6) to be here today, who sat through this proceeding, he--he's very thankful and thought--thankful for all the support.

These 19 years, yes, (b) (6) has been there through all the deployments, not for 19 years, but through many deployments. We would ask you to give great weight to the fact that--that a--you know, punishment in this case is going to be astronomical. He's been significantly punished. Being relieved from command was absolutely devastating, but again it--it saved his life. Having to let down his Sailors and put them through an embarrassment was--was absolutely just gut wrenching for Commander Wiley. But it saved his life.

We'd ask that you--you not dismiss Commander Wiley. We'd ask that you carefully weigh all of his contributions to the Navy over 19 years, and we would ask you to consider his--his--his family's situation that they've been through those deployments. We'd ask that you give great weight to Dr. Wood's, his medical report, and the testimony of Dr. Cunha. You have a number--a plethora of--of letters from senior officers and enlisted, and people who've--who are going through recovery with Commander Wiley. He's not only--he's there supporting our Sailors today. He is making a difference today. Despite the horrible things that have happened, he has not given up. Every day he's trying to contribute to our Navy through his sobriety

and through his rehabilitation, but also reaching out--you've seen the letters that he has--he's touched the lives of other Sailors who are--who are suffering from this disease, and it's not unique to his case. So he can do something honorable for our Sailors, for the Navy. Every day he's in, he is--he's continuing to serve honorably.

We'd ask in--when you are contemplating the--the appropriate confinement that--that you do look at his family situation, that you do look at, again, 19 years of service, and every day since this has happened has--has been--you know, he started serving the day he was relieved from his command he has thought about this, and it's--he's got a lifelong sentence already of knowing that he's let--he let his--his Sailors down, that he's impacted Lieutenant (b) (6) (sic) so bad and--and Petty Officer (b) (6) He will live with that for the rest of his life. I can't say it better than--than Commander Wiley. And you know he's let his--(b) (6) down and his (b) (6) --and the Navy, but he wants to gain that respect back.

So in--in--what--what would be appropriate in this case, we believe, is 12 months of confinement where he would serve the Naval Consolidated Brig at Miramar, where he could continue to visit with his family who live locally. It's--he is--it--it's been an extremely painful situation, but again it's one where it--it saved his life, and he--he truly embraces recovery. He is--has not hesitated accepting responsibility and accountability. I think it's been a

struggle understanding what happened, understanding alcoholism.

It's--it's easy to say, "Well, shouldn't you know better? You're a senior officer;" alcoholism doesn't discriminate. You know, a senior person in the Navy and alcoholism will--will im--impact you just like it would anyone else. So he is--this--this--this struggle has been a learning experience, one that has definitely benefited him and his family. He's benefiting the Navy right now with giving back to the Sailors in the program.

So again, when it's all said and done, Your Honor, we would ask with all due respect that--that you not award Commander Wiley a dismissal, and allow him to continue to contribute to the Navy as best he can while he's still--still here.

Thank you.

MJ: The court is closed for deliberations.

[The court-martial closed at 1720 hours, 28 October 2011.]

[The court-martial opened at 1855 hours, 28 October 2011.]

MJ: Court will come to order. All parties present when the court closed are again present.

Accused and counsel, please rise.

[The accused and defense counsel did as directed.]

[END OF PAGE]

MJ: Commander Jay D. Wiley, United States Navy, this court-martial sentences you as follows:

**To forfeit all pay and allowances;
To be confined for 10 years; and
To be dismissed from the service.**

You may be seated.

[The accused and his counsel did as directed.]

MJ: May I have the sentence-limitation portion of the pretrial agreement?

[Receives Part II of the pretrial agreement from the court reporter and reviews it.]

It's my interpretation ^{OF THE} sentence-limitation portion of the pretrial agreement that the confinement adjudged may be approved as adjudged; however, all confinement in excess of 42 months will be suspended for the period of confinement adjudged plus 12 months thereafter.

So the way I figure it, that would be 6 1/2 years would be suspended? Those 6 1/2 years will be suspended, again, for the period of confinement adjudged, which is 10 years, plus 12 months thereafter.

The adjudged forfeitures may be approved as adjudged; however, they will be suspended for 12 months from the date of the Convening Authority's action, at which time, unless sooner vacated,

they will be remitted, and the Convening Authority has agreed to defer adjudged forfeitures until the date of his action.

Additionally, automatic forfeitures, which do apply in this case, will be deferred and waived provided that the accused establishes and maintains a dependent's allotment in the total amount of the deferred forfeiture amount, which is total forfeitures, during the period of deferment and for 6 months thereafter. And the period of deferment will run from the date they would become effective, which is 14 days, until the Convening Authority acts.

And the deferred and waived forfeitures are to be paid to

(b) (6), and it is incumbent on you, Commander Wiley, to take out an allotment for this to take effect.

And as noted in your pretrial agreement, actually it's fairly specific as to what your obligations are so that the deferment and waiver of the forfeitures is effective, and that is that you establish a bank account maintained for the sole use of your--your

(b) (6) and that the allotment will be directed to that bank account. And again, that deferment would only take effect as long as you take no action to access any funds in that account.

You are required--again, this is your obligation. You are required to provide proof of your allotment and of the bank account

to the Convening Authority before the deferment will occur, so that's going to happen fairly quickly.

And this is considered a material condition of the deferment and waiver of automatic forfeitures, and that is that you agree to notify the Convening Authority in writing if there is some problem with PSD or the Department of Defense failing to pay the deferred and waived automatic forfeitures to your dependent, and that does happen occasionally, so you need to keep on top of that. And this is fairly specific, the address of the Convening Authority to whom you're to notify if nonpayment should occur.

And you've agreed in here that if you fail--if there is a problem with payment and you fail to notify the Convening Authority of that as outlined in this agreement, that the obligation of the Convening Authority to defer and waive automatic forfeitures is null and void, meaning he is no longer bound by that, with the sole remedy for nonpay--payment being the payment of the outstanding amount.

No fines were awarded, and no other punishments were adjudged.

Do you understand, Commander Wiley, the effect the sentence-limitation portion of your agreement has on the adjudged--on the effect the adjudged sentence has on the sentence-limitation portion of your agreement?

ACC: Yes, Your Honor.

MJ: Do the parties concur with the court's interpretation?

TC: Yes, Your Honor.

CDC: Yes, Your Honor.

MJ: I find the pretrial agreement as a whole to be in accord with appellate case law, not contrary to public policy or my own notions of fairness, and the agreement is accepted.

MJ: May I have the appellate-rights statement?

[Receives documents from the court reporter.]

I believe, Mr. Sullivan, you indicated there were two? Oh [receives the other statement].

So these have been marked--the short form is Appellate Exhibit V, and the long form is--will be marked as Appellate Exhibit VI.

Do you have a copy of those at the defense table?

CDC: Yes, Your Honor, we have them.

MJ: Commander Wiley, is this your signature on the last page of both of these exhibits?

ACC: Yes, Your Honor.

MJ: Have you discussed these documents with your counsel?

ACC: Yes.

MJ: And have you read them over?

ACC: [No response.]

MJ: Have you read these documents over?

ACC: Ye--yes, Your Honor, I have.

MJ: Do you understand all of your rights contained within these documents?

ACC: Yes, I do.

MJ: Do you understand all of your appellate rights?

ACC: Yes, I do.

MJ: Now you are entitled to a copy of the record of trial in your case, as well as a copy of the Staff Judge Advocate recommendation, the SJAR. You've indicated, however, that you desire both your copy of the record of trial and your copy of the SJAR be delivered to your counsel, Mr. Sullivan.

Is that, in fact, what you desire?

ACC: That is correct.

MJ: A copy of the appellate-rights statement will be appended to the record of trial.

Anything further from counsel prior to adjournment?

TC: Nothing from the government, Your Honor.

CDC: No, Your Honor.

MJ: This court is adjourned.

[The court-martial adjourned at 1903 hours, 28 October 2011.]

[END OF PAGE]

AUTHENTICATION OF RECORD OF TRIAL

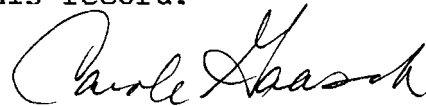
In the case of

Commander Jay D. Wiley,

U. S. Navy

Navy Region Northwest

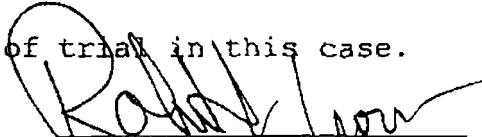
I have reviewed the foregoing record of trial in accordance with R.C.M. 1104(a) and hereby authenticate this record.



CAROLE J. GAASCH
CAPT, JAGC, USN
MILITARY JUDGE

2 December 2011

I have examined the foregoing record of trial in this case.



ROBERT J. CROW
CDR, JAGC, USN
TRIAL COUNSEL

16 November 2011

MARCUS N. FULTON
CDR, JAGC, USN
DEFENSE COUNSEL

_____ 2011

PROSECUTION EXHIBITS
OFFERED AND RECEIVED
INTO EVIDENCE

**DEPARTMENT OF THE NAVY
GENERAL COURT-MARTIAL
NAVY AND MARINE CORPS TRIAL JUDICIARY
WESTERN JUDICIAL CIRCUIT**

U N I T E D S T A T E S

v.

JAY D. WYLIE

CDR USN

STIPULATION OF FACT

It is hereby stipulated, by and between trial counsel and defense counsel, with the express consent of the accused, that the following facts are true:

1. I, Commander Jay D. Wylie, United States Navy, accepted a commission in the United States Navy on 8 May 1992 through the Naval Reserve Officer Training program following graduation from the University of Southern California. I have remained on active duty in the United States Navy without discharge or release from that date to the present.
2. I am currently attached to USS MOMSEN (DDG 92) . I was relieved of my duties as Commanding Officer on 26 April 2011 by Rear Admiral Mark Guadagnini, U.S. Navy, Commander, Carrier Strike Group NINE and pending approval of formal detachment for cause proceedings. I have been administratively reassigned to the staff of Commander, Naval Surface Forces, U.S. Pacific Fleet in San Diego, California since being relieved of command.
3. I took command of USS MOMSEN (DDG 92), which is homeported in Everett, Washington, on 8 July 2010. As Commanding Officer, all officers and enlisted onboard were subject to my orders. As Commanding Officer, I held the authority and responsibility to enforce good order and discipline on members of USS MOMSEN (DDG 92), including the authority to impose nonjudicial punishment and refer charges to summary and special courts-martial.
4. USS MOMSEN (DDG 92) went on deployment from 7 September 2010 to March 2011. As part of that deployment, we conducted a port visit to Tokyo in late October. I became intoxicated while out on liberty and I fell on the floor in front of members of my wardroom and crew. I have also taken other people's drinks from the bar when on liberty and have a reputation for drinking too much.
5. During the deployment, we also conducted a port visit to Victoria, Seychelles from 30 December 2010 through 4 January 2011. During that port visit, I joined several members of the wardroom in renting an "admin" for use while on liberty during our port call. The "admin" we rented was a house in Victoria.

PE 1 for ID

6. I went out on liberty and went to a bar in Victoria, Seychelles on 31 December 2010, New Year's Eve. While on liberty I consumed alcohol. While at one of the bars in Victoria in which members of the MOMSEN crew and wardroom were present, I became publicly intoxicated in front of my officers and crew.

7. While at one of the bars after I became intoxicated, I was attempting to dance with Ensign (b)(6) (b), U.S. Navy. Ensign [REDACTED] was a member of my wardroom and subject to my orders. She was 22 years old at the time and was 5' 6" tall and weighed approximately 150 pounds. I was 40 years old, was 6' tall and weighed approximately 235 pounds.

8. When I would attempt to dance with Ensign (b)(6) she would attempt to push me away by placing her elbow between us and then taking a step away and turn away from me. I continued to re-approach her and she would continue to undertake the same maneuvers to keep me away from her. She undertook these maneuvers to give me the indication in a tactful manner that she did not like what I was doing and did not want anything to do to me. This lasted for approximately 30 minutes. Although I was not aware of it at the time, I understand that she was making facial expressions to others that communicated that she was uncomfortable with my actions. However, when facing me she would put on a good face and smile in an effort to be tactful to me as her Commanding Officer.

9. At some point during the time I was attempting to dance with Ensign (b)(6), several chiefs from the MOMSEN came onto the dance floor and escorted Ensign (b)(6) off the dance floor. They had observed my behavior on the dance floor and told Ensign (b)(6) that they were placing her in a "time out" for good reason and told her that she didn't have to stay at the club.

10. Approximately 15 minutes later I re-approached Ensign (b)(6) from behind and placed my hands on her shoulders and squeezed them in an effort to massage her shoulders. Ensign (b)(6) immediately reacted to my touching her by pushing my hands away with her forearms and she said "don't touch me." She then turned around and realized it was me. I stepped back and turned my palms up based on her reaction.

11. Ensign (b)(6) then sat down in the bar and I began massaging her shoulders again. Ensign (b)(6) was offended and did not know what to do in that she believed that she had made it clear to me that she did not want to be touched. She then got up and went to the bar to get a glass of water to get out of the situation. My actions were inappropriate.

12. While Ensign (b)(6) was standing at the bar waiting on the bartender I went up behind her and placed my hip against the bar and leaned against her with my body. She was facing forward and I was behind her, slightly to her left, facing the same direction. I placed my left hand on the bar and my other hand on Ensign (b)(6). I then whispered to her to kiss me and began trying to kiss her. She then began moving her head away from me in an effort to avoid my efforts to kiss her. She told me "no" several times as I was trying to kiss her.

13. At the same time I was attempting to kiss Ensign (b)(6) while I was pressed against her at the bar, I put my hand up her dress (which came down a few inches above her knees), moved her

underwear to the side, and penetrated her vagina with my finger. Due to the position of my hands as well as my size as compared to that of Ensign (b)(6) it was physically impossible for her to move away at the time I penetrated her vagina with my finger. My whole hand was touching her vagina and my finger was inside her vagina. Ensign (b)(6) just froze as I was doing this. Due to my size and because I was pressed up against her, she was unable to avoid or escape my penetration of her vagina. She never gave me consent to touch her in this manner. She had not done anything to make me believe I had her permission to penetrate her vagina in this or any other manner. I intentionally penetrated her vagina with my finger for approximately 15-20 seconds. I did this in order to arouse and gratify my sexual desires.

14. Due to my intoxication, after penetrating her vagina for 15-20 seconds, I lost my balance and my hand came out from under Ensign (b)(6)'s dress. Ensign (b)(6) then escaped from me and went into the women's head. She stayed in the head for approximately one hour crying before coming out and leaving the bar.

15. As the Commanding Officer and senior officer present, my actions in becoming publicly intoxicated in front of my crew were wrongful and dishonorable. I failed to set the right example and uphold the highest standards of decorum and professionalism. My actions were prejudicial to good order and discipline in that they compromised my standing to uphold good order and discipline onboard MOMSEN because of my actions in front of the crew. My actions in making unwanted sexual advances and unwanted sexual contact with Ensign (b)(6) were also wrongful and dishonorable. As the Commanding Officer, it was my responsibility to uphold the Navy's policy on prevention of sexual harassment and to enforce good order and discipline for sexual misconduct through disciplinary means. Instead of enforcing the rules and law, I instead broke them.

16. Several officers from my wardroom who had arrived together from the "admin" we rented left the bar together at the same time, approximately one hour after I had sexually assaulted Ensign (b)(6). Ensign (b)(6) got into the back of the van and I got into the front passenger seat. Although I was unaware of it at the time, Ensign (b)(6) was crying on the drive home and attempted to prevent others from seeing it as she did not want to have to explain to anyone what I had done to her at the bar. After we arrived at the "admin" Ensign (b)(6) went into her bedroom and went to sleep and I did not have any further contact with her that night.

17. The next morning I approached Ensign (b)(6) in the backyard area of the house and I apologized to her. Her reaction was rather abrupt and she said "excuse me" and walked away from me and went back into her room.

18. Ensign (b)(6) avoided contact with me as much as possible for the month after I sexually assaulted her. Although I would occasionally touch her prior to the sexual assault in a nonsexual manner while underway, I didn't touch her at all after the incident. I now understand that when she would see me that she would suffer from panic attacks, have trouble breathing, and would have to go to her stateroom to gain control of herself.

19. After approximately a month back onboard, while we were at sea in February, 2011 I scheduled a meeting with Lieutenant Zamberlan, the Safety Officer, and Ensign (b)(6), the

Assistant Safety Officer. I rescheduled the meeting several times and eventually held the meeting when Lieutenant Zamberlan was on watch. The meeting was just between me and Ensign (b)(6) and was in my cabin.

20. After discussing safety issues, my body language changed and I placed my head into my hands and told Ensign (b)(6) that I was sorry for what I had done to her. I told her that I had a problem with alcohol and that I was praying for her every night and that I had found God again. I then told her that I thought she didn't want to see me and she responded by telling me that everyone makes mistakes. She then told me that nothing like this is to ever happen again and I agreed that it would not. I convinced her that it was a bad idea to report me and promised her that I had my actions under control and persuaded her to trust me. She told me that it goes against everything that she believes in to not report me for what I did to her at the bar in Victoria, Seychelles. I told her that I knew that.

21. My actions in convincing Ensign (b)(6) that it was a bad idea to report what I had done to her were wrongful and dishonorable. She was a junior officer under my command and it was wrongful and dishonorable to put her in the position of not reporting my actions. Ensign (b)(6) left the meeting with me believing that she was not going to report to anyone that I had sexually assaulted her.

22. Ensign (b)(6) did not report my sexual assault of her for many reasons, including that she feared it would tarnish her reputation on the ship; she believed reporting my sexual assault would compromise her progress in obtaining her Officer of the Deck (Underway) qualifications; she believed reporting my sexual assault would cause others on the ship to look at her differently; she wasn't quite sure who to handle the situation since we were on deployment and I was the Commanding Officer; and I had informed her that I would never offend again.

23. I did not drink alcoholic beverages during social occasions in front of Ensign (b)(6) after I had sexually assaulted her. Because of this, Ensign (b)(6) believed that I was following through on my promise to her that I had my actions under control and would never re-offend. As a result, she honored my persuasion of her not to report my actions.

24. On 25 April 2011 the USS MOMSEN (DDG 92) was pierside at Naval Magazine, Indian Island, Washington. The officers and crew went out that evening at a local bar called Diggers. It was a facility that was used while ships were docked at Indian Island for ammunition onloads and individuals could gather there and bring their own alcohol.

25. At around 1700 that evening the duty van began shuttling people to the bar. I was drinking there at Diggers and became visibly intoxicated in front of my officers and crew. At one point I was talking to members of the crew and I told Engineman Fireman (ENFN) (b)(6), U.S. Navy, to taste my drink, which was straight vodka. ENFN (b)(6) has since advanced and is currently an E-4 petty officer, but on 25 April she was still an E-3.

26. At its peak there were approximately 30 to 40 people present at the bar. However, people left throughout the evening and at one point there were only approximately 10 people left. Someone began playing music on a phone and some of the enlisted began to dance. I began

dancing with the enlisted members of the crew for a couple of songs. After a couple of dances we all left to catch a ride back to the ship in the duty van. As the Commanding Officer and senior officer present, my actions in becoming publicly intoxicated in front of my crew were wrongful and dishonorable and compromised my standing as a commissioned officer. I failed to set the right example and uphold the highest standards of decorum and professionalism. My actions were prejudicial to good order and discipline in that they compromised my standing to uphold good order and discipline onboard MOMSEN because of my actions in front of the crew.

27. While waiting for the duty van, I stood by ENFN (b)(6) and told her to tell me a story. ENFN (b)(6) was a junior enlisted member of my crew and subject to my orders. She was 22 years old, had been in the Navy less than two years and resided onboard USS MOMSEN (DDG 92). She complied with my direction because I was the Commanding Officer and she began telling me about how she joined the Navy. She then climbed into the duty van and got into the back seat and I followed her and sat beside her in the back seat. She was between me and the side of the van. She was 5' 3" tall and weighed approximately 150 pounds. I then placed my arm on the back of the seat above ENFN (b)(6). On three or four occasions I would brush my hand against the shoulders of ENFN (b)(6) and rub her arm. My actions made ENFN (b)(6) very uncomfortable. She was "freaked out" because I was her Commanding Officer and was making advances towards her. Before the van approached the ship I told ENFN (b)(6) "you should come home with me." ENFN (b)(6) made a joke to try and diffuse the situation. As the van approached the ship, I again told ENFN (b)(6) "you should come home with me."

28. Since we were both in the very back of the van, we were the last to get out. I got out before ENFN (b)(6) and I stood by the van and waited for her to get out. The others who had been in the van were already on the brow and I followed ENFN (b)(6) as she walked up the brow. ENFN (b)(6) was making facial gestures in an effort to get the attention of the watchstanders by bugging her eyes out in order to get help due to me following closely behind her as we walked up the brow. When we got inside the skin of the ship another person was approaching the hatch and I closed it and dogged it shut to prevent his entry. When we got to the location on the ship where ENFN (b)(6) would have gone down a ladder to get to her berthing, I stood in a position that blocked her approach. I then put my hand on the small of her back and led her up to my stateroom.

29. ENFN (b)(6) was in fear, didn't know what to do, and felt trapped by my actions. She was also afraid that she would get into trouble by putting herself in a position where such things could happen. ENFN (b)(6) thought about running but wasn't sure what she would do even if she got away. She didn't feel that there was anything she could do and believed that she had no choice but to comply with my directions.

30. I entered the code into my cipher lock, shepherded ENFN (b)(6) into my cabin, and closed the door. ENFN (b)(6) went into the head. While in the head ENFN (b)(6) was hoping I would just pass out so she could get away. When she came out I had a smile on my face and walked to ENFN (b)(6) and placed my hand on her waist. I then told ENFN (b)(6) to take off her pants and she did as I requested. I then told ENFN (b)(6) to "kiss me" and she did as I requested. It was an open mouth kiss and I stuck my tongue in her mouth. Due to the disparity in rank, my positional authority, the location in my stateroom, and my physical size, ENFN (b)(6) did not believe she

could refuse to perform the requested acts. I then placed my arm around her and sat her onto the bed with my hands around her waist.

31. After positioning ENFN (b)(6) on the bed, I then got onto my knees and put my mouth onto her vagina and performed oral sex upon ENFN (b)(6) for several minutes. My actions in placing my mouth upon her vagina were intentional. On three different occasions I would come up and kiss ENFN (b)(6)'s breasts and make her kiss me on the mouth and then I would return to performing oral sex upon her. In performing oral sex upon her, I penetrated her vagina with my tongue. Between one of the times that I was going from kissing ENFN (b)(6) and performing oral sex upon her, I took off my pants and underwear and then I began performing oral sex upon her again.

32. I then put my fingers into ENFN (b)(6)'s vagina and then pulled them out and placed them back inside her vagina on at least two occasions. I then put one of my fingers into her anus. This caused ENFN (b)(6) discomfort and pain. My actions in putting my fingers into her vagina and my finger into her anus were intentional. I then told her "you are so hot." She then said that she had to use the head and I got up and sat beside her on the bed. She then went into the head and I got into the bed under the covers. ENFN (b)(6) then came out of the head approximately 30 seconds later, grabbed her pants and put them on. ENFN (b)(6) hurried towards the door and as she left she kept apologizing by saying "I'm sorry sir, I have to leave."

33. When I put my mouth on ENFN (b)(6)'s vagina and my fingers in her vagina and anus, I did so in order to arouse and satisfy my sexual desires. My actions were wrongful and dishonorable.

34. ENFN (b)(6) never gave me verbal consent to perform these sexual acts upon her body. Given my rank, authority and position as the Commanding Officer, I do not reasonably believe that she consented to engage in sexual activities with me. ENFN (b)(6) was in fear and did not believe she had a choice the matter. She believed she had to comply due to my position, authority and rank. As a Commander, I was 14 paygrades senior to ENFN (b)(6). As her Commanding Officer, I had the authority to issue orders to her, other members of the crew as well as all of the officers onboard. As captain of the ship, I was the most senior person onboard and I had authority over all personnel attached to the ship. Based on her training, ENFN (b)(6) reasonably believed that if the Commanding Officer speaks, a Sailor must listen, reply back, and comply. My position and authority was in her mind the entire time, from the time we entered the van to the time she left my stateroom. ENFN (b)(6) reasonably believed I had the ability to impact her Navy career if she did not comply. Some examples of things that she thought I could do would be to make her crank, send her to NJP, stop all training and schools, and restrict her liberty. ENFN (b)(6) believed that everyone onboard MOMSEN liked and respected me and that I was a very good Commanding Officer. Prior to this incident, ENFN (b)(6) held me in similar regard. These factors contributed to her mindset that she should not question what I was directing her to do and what was happening in my stateroom. She felt helpless to question my authority as the Commanding Officer.

35. My actions in making unwanted sexual advances and engaging in unwanted sexual contact with ENFN (b)(6) were wrongful and dishonorable. As the Commanding Officer, it was my responsibility to uphold the Navy's policy on prevention of sexual harassment and to enforce

good order and discipline for sexual misconduct through disciplinary means. Instead of enforcing the rules and law, I instead broke them and compromised my standing as a commissioned officer.

36. After I sexually assaulted ENFN (b)(6), she went to smoke to calm her nerves and was crying because of what I had done to her. She was alone and tried to get herself together before going into her berthing. She realized that she wouldn't be able to sleep because of what I had done to her. She then went and sought help from her shipmates. While crying she was begging a shipmate to assist her and she then ran into another shipmate who took her to the helo deck to talk. ENFN (b)(6) kept saying over and over that "it was the Captain" and "I don't know what to do." Eventually, others became aware of the situation and ENFN (b)(6) received a Sexual Assault Victim Intervention (SAVI) advocate. The Naval Criminal Investigative Service (NCIS) was later notified and ENFN (b)(6) had to recount what I had done to her to special agents of NCIS. ENFN (b)(6) then underwent a Sexual Assault Forensic Examination (SAFE).

37. Ensign (b)(6) was in Surface Warfare Officer School (SWOS) in Newport, Rhode Island during April 2011 for three weeks of temporary additional duty. While in Newport, Ensign (b)(6) received a text message from another officer onboard MOMSEN indicating that I had been relieved of duty as the Commanding Officer.

38. Ensign (b)(6) was then called into Commander Bodvake's office (who was on staff at SWOS and was my predecessor as Commanding Officer of MOMSEN) and informed that I had been relieved of duty as the Commanding Officer and that USS MOMSEN was still a good ship to be a part of. She was informed that it was due to sexual misconduct by me against a member of the crew.

39. Ensign (b)(6) became upset and walked out of the meeting with Commander Bodvake. She went back later and apologized for her actions to Commander Bodvake and upon being asked what upset her, she informed Commander Bodvake that something similar had happened to her in the past. Commander Bodvake then informed Ensign (b)(6) that if something had happened between an ensign and a commander that it was not right and should be reported.

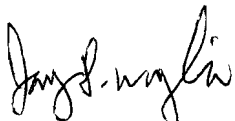
40. Ensign (b)(6) then reported what I had done to her to special agents of NCIS on 17 May 2011, in part because she was aware that I had sexually assaulted ENFN (b)(6) and she didn't want ENFN (b)(6) to face the situation alone and she knew it was the right thing to do at that point and because I had not honored my commitment to her that what I had done to her would never happen again.

41. Ensign (b)(6) called me on 19 May 2011. I was in San Diego at the time. I spoke to Ensign (b)(6) and told her that I was an alcoholic and had let my guard down and drank when I sexually assaulted ENFN (b)(6). I also told Ensign (b)(6) that alcohol takes away my impulse control and that is why I had sexually assaulted her at the bar in Victoria, Seychelles. She felt responsible for what I did to ENFN (b)(6). I again encouraged Ensign (b)(6) not to report me and told her to trust me. I told her I had it under control and that she didn't need to report what happened. Ensign (b)(6) told me that she blames herself every day for what happened to ENFN (b)(6) because she had trusted me to not offend again if she didn't report me. I told her that it would

never happen again. She reminded me that I had made that promise once already and then had broken it. I again encouraged Ensign (b)(6) not to report me and told her "I don't want you to get anything of this on you."

42. At the time that Ensign (b)(6) called me I did not know it was a controlled phone call at the behest of NCIS and was being recorded. I now understand that it was done as part of the investigation against me.

43. I could have avoided sexually assaulting Ensign [redacted] and sexually assaulting ENFN (b)(6) if I had wanted to. This was a freely made decision on my part. Although I was under the influence of alcohol on both occasions I do not believe that the alcohol prevented me from forming the specific intent to arouse and gratify my sexual desires while committing the offenses. After discussing the defenses of consent, mistake of fact as to consent with my defense counsel, I understand these defenses and I agree that they did not occur in this case and I do not desire to raise them as defenses. Additionally, after discussing the defense of voluntary intoxication as to the specific intent elements, I agree that I did form the specific intent to arouse and gratify my sexual desires and I agree that the defense did not occur in my case and I do not desire to raise voluntary intoxication as a defense.



JAY D. WYLIE
CDR, USN
Accused



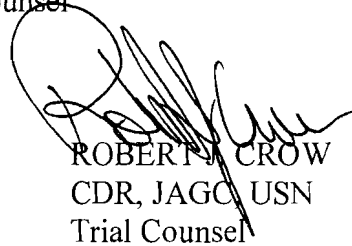
MARCUS N. FULTON
CDR, JAGC, USN
Detailed Defense Counsel



JEREMIAH J. SULLIVAN, III
Civilian Defense Counsel



PATRICK K. KORODY
LT, JAGC, USN
Assistant Trial Counsel



ROBERT M. CROW
CDR, JAGC, USN
Trial Counsel



DEFENSE EXHIBITS
OFFERED AND RECEIVED
INTO EVIDENCE

Defense Exhibits A-B removed under (b)(6)



DEPARTMENT OF THE NAVY
COMMANDER, MILITARY SEALIFT COMMAND
914 CHARLES MORRIS CT SE
WASHINGTON NAVY YARD DC 20398-0001

IN REPLY REFER TO

5830
Ser N00
25 Oct 11

From: Commander, Military Sealift Command
To: Senior Military Judge
Western Judicial Circuit Navy-Marine Corps Trial
Judiciary
Attn: CAPT Carole Gaasch, JAGC, USN

Subj: CHARACTER REFERENCE LETTER ICO COMMANDER JAY WYLIE, USN

1. I am submitting this letter testifying to the character of Commander Jay Wylie, USN who is appearing before you as part of General Court Martial proceedings concerning his conduct while in command of USS MOMSEN (DDG 92).

2. I have known Jay Wylie professionally and socially since 1997 when he served under my command as the Anti-Submarine Warfare Officer in USS CARNEY (DDG 64). At that time and in the ensuing years since then, I have known Jay to be one of the finest officers I have ever served with. In CARNEY, he was clearly a leader among the junior officers and headed the best run division in the ship. So well honed were his professional skills, that the Sea Combat Commander for our entire Carrier Strike Group "borrowed" him - as a LTJG - to serve on his staff for over two months to orchestrate ASW operations across the entire Strike Group led by then-Rear Admiral Mullen. It was clear to see that Jay was destined for success in his career.

3. Specifically concerning his character, I have never known Jay to exhibit anything but the highest degree of integrity, maturity, and morality in all of his personal and professional dealings. You need only review the impressive string of positions of trust and confidence that he has held and the quality of service he performed in those billets to understand the true cut of his jib. I know him to be a devoted (b) (6)

(b) (6)

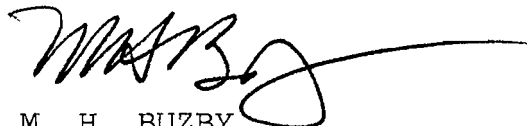
4. I spoke at CDR Wylie's Change of Command in July 2010, and confidently told the crew that they were getting a superb officer to lead them. Further, I stated that command afloat is the most sacred trust that our Navy can bestow upon an officer, a job with unequalled responsibility, authority, and accountability. I knew of no finer officer to be assuming command.

SUBJ: CHARACTER REFERENCE LETTER ICO COMMANDER JAY WYLIE, USN

5. I was shocked, dismayed, and incredulous to learn of Jay's relief from command and the circumstances surrounding it; completely out of character for the Jay Wylie I have known for the past 14 years. I cannot begin to explain his conduct.

6. What does not surprise me, however, and what I would fully expect from Jay, is his admission of guilt and acceptance of full accountability for his actions that night. Clearly, he made a significant error in judgment; even clearer - he continues to be a man of integrity whom I know will continue to seek ways to positively contribute to our Navy and society.

7. He continues to enjoy my trust and admiration.



M. H. BUZBY
Rear Admiral, USN

26 SEP 2011

To Whom It May Concern:

I am writing this letter on behalf of CDR Jay Wylie. CDR Wylie and I served together at PRECOMUNIT KIDD and later aboard USS KIDD (DDG 100), after her commissioning from January 2006 until his transfer in 2008. During this time, CDR Wylie served as the Executive Officer and I served as the Combat Information Center Officer and Assistant Operations Officer.

I am somewhat aware of the charges pending against him and my hope is that this letter will help you to better understand the type of person he is despite the transgressions that have led him to this point. I only ask that you consider the totality of his career and his previous contributions to our Navy when making your decision.

During my 19 years of service, I have never met a more dedicated and selfless Surface Warfare Officer. By far, CDR Wylie was the most intelligent tactician and gifted ship driver aboard KIDD. Whether in CIC or on the bridge, every junior Officer aboard that ship knew that he could be counted on to provide sage advice and counsel when needed. During his limited free time underway, XO Wylie could often be found in the Wardroom mentoring junior Officers, with his box of model ships and stack of MOBOARDS, discussing ship driving techniques and warfare tactics. It was obvious that those were the moments he cherished - sharing his knowledge and preparing junior Officers for the future.

Through his leadership, the crew of KIDD became a well-oiled machine and it was obvious that EVERY member of the crew held XO Wylie in high regard. Even today, when I happen to cross paths with KIDD Plank Owners on the street or chat with them on the internet, we share stories of how XO Wylie motivated the crew. Through the hardships of Hurricane Katrina and the pre-commissioning process, XO Wylie held the crew together and pushed us to succeed. During his time with KIDD he maintained an excellent rapport with the entire crew and I challenge you to find anyone who would say otherwise.

I realize the severity of the situation, but I want you to understand that from my observation of him over a two year period there was NEVER any pattern or history of misconduct. XO Wylie set the standard for KIDD across the board - and we followed.

Very Respectfully,

Adam D. Chambers

LT USN

CSCS Unit Dam Neck

JICO/Tactical Training Division Officer

757-492-6430 (office)

(b) (6)

NAVSUPPFAC, Diego Garcia
PSC 466, B
FPO AP 961
315-370-4606 (DSN)

(b) (6)

September 15, 2011

To Whom It May Concern:

I had the honor of serving with CDR Jay Wylie while I was assigned to the USS KIDD (DDG 100) from August 2005 until September 2009. CDR Wylie was serving as the Executive Officer during my time aboard. I was billeted to KIDD as the Chief Master at Arms and had almost daily interaction with CDR Wylie. I can say, without hesitation that CDR Jay Wylie is one of the very best Naval Officers I've ever served with.

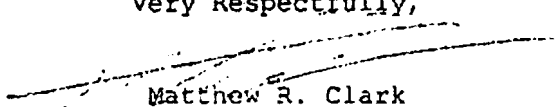
During my time aboard KIDD, I witnessed first hand the professionalism and leadership displayed by CDR Wylie and found myself personally inspired by his actions. Shortly after I reported for duty, KIDD sustained significant damage caused by hurricane Katrina. The crew was concerned for both the ship and their own future. CDR Wylie came to the detachment in San Diego, put the crew at ease and kept everyone informed with up to the minute information pertaining to the ship and crew.

Once the entire crew was brought to Pascagoula, MS. CDR Wylie had a plan; he was involved in every aspect of the ship and made his leadership and presence known in every department. From Friday's all hands training, to Combat Information Center training; he led from the front. When we received our Junior Officers to finish out the crew; CDR Wylie would take the time with every one of them, personally putting them on a road to success. During my many visits to his office, I witnessed CDR Wylie holding training with the Junior Officers; he had a very unique way of working with them. CDR Wylie had boxes full of miniature ships; he would place them on maps, charts or whatever was available to teach them recognition or movements. I would over hear the Junior Officers talk about the training and how much they were learning from it.

Personally, CDR Wylie inspired me to achieve more. He offered and assisted me in my qualification as OOD underway; being a rated MA, I didn't know a lot about ship handling. The XO would sit me down in his office and use the miniature ships to assist me in achieving my personal and professional goals. CDR Wylie has been a mentor to me since day one. He's guided me in my career as a Chief Petty Officer and still guides me as a Limited Duty Officer. I seek out and value his opinion on everything; from professional goals, to starting a family. CDR Wylie is a significant part of my military career and my personal life.

As the CMAA, I worked a lot with the XO. CDR Wylie was a true professional in dealing with all personnel issues. He took the time to consider the Sailors entire career, not just the single action that brought them before the mast. I respectfully request that he is offered the same consideration as he faces his own future.

Very Respectfully,


Matthew R. Clark
ENS USN

August 30, 2011

To Whom It May Concern:

SUBJECT: PERSONAL STATEMENT ICO CDR JAY D. WYLIE

I had the privilege of serving with CDR Wylie while he was assigned as the Executive Officer on USS KIDD (DDG 100) from August 2005 until his transfer in July 2008. Being part of the Administrative Department as the Commanding Officer's Yeoman, CDR Wylie was also my Department Head and we had interaction on a daily basis.

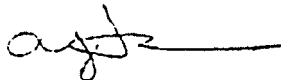
CDR Wylie was nothing but a professional leader who cared greatly about the welfare and morale of his crew. He led by example, always following Navy regulations and procedures. Also he emphasized the crew of KIDD to "train like you fight" and because of his dedication and motivation to exercises and drills, KIDD scored high on every evaluation and was looked up to on the waterfront. Even though he had a work hard attitude, he understood there had to be a balance of fun as well. He knew just when the command needed a steel beach picnic underway and would always be carrying around his "Bag of Prizes" to give to the first Sailor that could answer a trivia question. CDR Wylie made the crew feel appreciated and always had our best interests in mind.

After the three years I worked with CDR Wylie, I think of him now as a mentor. Someday I will be a commissioned officer and what he has taught me will help me succeed in my future goals. If I had the choice of assignment I would choose to be transferred to whatever command CDR Wylie was attached to without a second thought.

If you have any questions feel free to contact me at (b) (6)

(b) (6)

Sincerely,



A. J. DERSHAM
YN2 (SW), USN



DEPARTMENT OF THE NAVY

NAVAL NUCLEAR POWER TRAINING UNIT

P.O. BOX 300

BALLSTON SPA, NEW YORK 12020

IN REPLY REFER TO:

1000

27 Oct 11

CAPT Carole Gaasch, JAGC, USN
Senior Military Judge, Western Judicial Circuit
Navy-Marine Corps Trial Judiciary
3395 Sturtevant St., Suite 8
San Diego, CA 92136

Judge Gaasch:

SUBJECT: CHARACTER REFERENCE LETTER ICO CDR JAY C. WYLIE, USN

I had the distinct pleasure of serving with Commander Jay Wylie for approximately one year from spring 2002 until March 2003 onboard USS PORT ROYAL (CG 73), a Pearl Harbor based guided missile cruiser. I served as Executive Officer, and Commander Wylie served as Operations Officer. During the year of our service together PORT ROYAL deployed to the Arabian Gulf and Western Pacific, participated in the 2002 Rim of the Pacific (RIMPAC) Exercise, and completed a shipyard availability and the basic phase of training during an inter-deployment period.

As Operations Officer, Commander Wylie served honorably and with great distinction, epitomizing our Navy core values of honor, courage, and commitment. Unquestionably, his leadership, dedication, and mastery of motivating Sailors to do their best paved the path of our ship's success and provided the winning advantage in PORT ROYAL's award of the Spokane Trophy for best ship in the Pacific Fleet for 2002 and second consecutive Battle Excellence Award.

Commander Wylie assumed his demanding duties as Operations Officer in the midst of PORT ROYAL's post 9-11 surge deployment as Air Defense Commander for the USS JOHN C. STENNIS (CVN 74) Carrier Strike Group. Immediately on the heels of the ship's return from a seven month deployment, he coordinated all aspects of embarking Commander, Cruiser-Destroyer Group FIVE, standing up PORT ROYAL as the RIMPAC Flagship during a post-deployment leave period and readying the ship for a three-week exercise exactly 30 days after returning home from sea. Following a shipyard maintenance period and in preparation to deploy in support of Operation ENDURING FREEDOM, he then flawlessly orchestrated an arduous and accelerated 10-weeks of training to

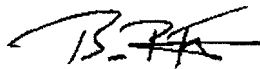
SUBJECT: CHARACTER REFERENCE LETTER ICO CDR JAY C. WYLIE, USN

certify the crew in 14 of 16 mission areas, including a day and a half Final Evaluated Problem Exercise - never before heard of during that time. I was exceptionally proud to have recommended Commander Wylie for command to the Captain on fitness reports.

The events which have resulted in me writing this letter do not reflect the Jay Wylie I served with nor have known for the past decade. While I am not privy to the specific circumstances or details of the charges he is facing, the few facts I am aware of related to his General Courts Martial are clearly of a very serious and reprehensible nature. While I am exceptionally disappointed and disheartened by the actions of my friend and shipmate, I know he is demonstrating his true character by accepting full responsibility for his actions and ultimate accountability via your court.

As a former Commanding Officer afloat and in my current assignment as Commanding Officer of the Naval Nuclear Power Training Unit Ballston Spa, New York, I know that you have exceptionally difficult decisions ahead of you in this case. I do not envy you in this regard, but remain confident in our system of jurisprudence and accountability. Thank you for the opportunity to write to you about my professional service with Jay. Please do not hesitate to contact me, if there is anything else I can relate to assist you in this case. I can be contacted at (b) (6)

Very Respectfully,



BRIAN P. FORT
Captain, U.S. Navy
Commanding Officer

2
2/6/1

26 October 2011

CAPT Carole Gaasch, JAGC, USN
Senior Military Judge, Western Judicial Circuit Navy-Marine Corps Trial Judiciary
3395 Sturtevant St., Suite 8
San Diego, CA 92136

CAPT Gaasch,

I have known CDR Jay Wylie for over 16 years (since 1995) and during that time I have served with him and seen him grow as an officer and a gentleman.

Jay was a Division Officer on Pre-Commissioning Unit CARNEY where I first encountered him. During the time aboard I observed him serving with distinction. He was always at the forefront of activity. Although I was a department head in another department and him a division officer, we interacted often especially in watch standing and training. He was an absolute professional and highly enthusiastic. He was admired by his men and always quick with a smile and a positive comment.

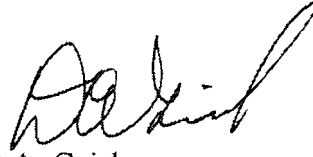
One specific item that should be noted was that while CDR Wylie was a Combat Systems Division Officer, USS CARNEY was awarded the USS ARIZONA Memorial Trophy for most combat ready ship in the Navy. His leadership and technical acumen directly contributed to achievement of this highly coveted award.

I continued to track Jay throughout his career and had opportunities to engage with him on numerous occasions. I had chance meetings with him while in Newport and other times while his career progressed. I was continued to be impressed with his aspiring goals, enthusiastic positive nature and commitment to the Navy.

I most recently had the opportunity to visit Jay while he was in command, deployed in the Persian Gulf. I came aboard a smart ship, where there the crew was motivated and mission focused. Spending some time with him, once again, I found the enthusiastic and highly skilled naval officer before me. His ship had a good reputation back on the staff for always being ready and able to flex to the mission.

I offer up my personal opinion of CDR Jay Wylie as my own observation of his stellar career which I have had the fortunate experience to encounter over many years. He is a great man and leader. I think that what he has done is not a reflection of the true nature of Jay Wylie and that now that he has released some of the burdens, specifically alcohol; he will continue to grow and thrive.

I would gladly serve with him in any capacity and request that you take his outstanding Navy career, what he achieved as a captain of a ship of the line and his dedication as a (b) (6) into consideration as a strong balance in favor of CDR Jay Wylie.



D.A. Geisler
Captain, U.S. Navy

CAPT Carole Gaasch, JAGC, USN
Senior Military Judge, Western Judicial Circuit
Navy-Marine Corps Trial Judiciary
3395 Sturtevant St., Suite 8
San Diego, CA 92136

Judge Gaasch:

SUBJECT: CHARACTER REFERENCE LETTER ICO CDR JAY C. WYLIE, USN

CDR Jay Wylie served honorably and with great distinction as my Executive Officer in USS KIDD (DDG 100) from Feb - Jul 2008. During this period of constant direct observation of his performance and character, I never discerned even a hint of behavior that was dishonorable, criminal, or not in keeping with the special trust and confidence conferred on an officer serving in a highly visible senior leadership position aboard a warship. In fact, CDR Wylie's performance was just the opposite: I credit his personal leadership example and commitment to the welfare of the crew to be one of the primary factors in the ship's success during an unusually long and arduous pre-commissioning phase.

Any "pre-comm" detail is inherently challenging due to extended periods of assignment at the construction yard, which is typically remote and dislocated from families and associated Navy personnel support structures. In KIDD's case, these challenges were prolonged a full year by damage **sustained during** construction from hurricane KATRINA, which compressed the **post-delivery** testing and trials phase well beyond what most ships experience. The majority of the crew's families had already PCS'd to San Diego, so this year of unrelenting pressure was spent largely in isolation, with the crew domiciled in storm-damaged facilities in Pascagoula, MS.

Although I was not present during that phase of the ship's life, the "survivors" comprised the majority of the crew when I assumed command. These Sailors consistently told me that CDR Wylie's leadership during this unusually arduous period was the "glue" that kept the crew together. His personal involvement in each Sailor's development, creativity and humor in devising morale-enhancing activities, deep concern for the welfare of the crew's families, and personal humanity were hallmarks of his leadership. At the same time, he was not slack in enforcing disciplinary standards, and ensured that incidents of misconduct were not allowed to "fester" in the shipyard environment.

Balancing a crew's respect, loyalty, and affection is not easy - many leaders curry favor to gain affection but sacrifice respect, while others sternly command respect without the humanity which generates affection and loyalty. Jay Wylie achieved this balance to perfection, and I will always hold him in the utmost regard, despite his present circumstances.

As a new CO, I could not have asked for a better guide and teammate. CDR Wylie's insights into the crew's mindset and morale were an infallible guide, and his ceaseless advocacy for our Sailors and their families ensured that we maintained a positive command climate. I also drew inspiration from his abiding love of the Navy and deep knowledge of our rich history and traditions. Finally, I observed his deep commitment to (b) (6)

(b) (6), who are truly his "center of gravity."

I believe that the events which necessitate this letter are a horrible aberration, and do not reflect the totality of character, values, and performance that have characterized CDR Wylie's 19-odd years of service. I also know that he is genuinely repentant - not the crocodile tears of "the guy who got caught," but the heartfelt remorse of one who knows that they have failed to live up to the expectations of the Service, as well as the ideals they have sought to live by.

For an officer of such deep-seated honor and conviction as Jay Wylie, no punishment will be greater than the self-reproach and shame that comes with such circumstances. That said, I know that the good of the Service necessitates some form of official action, and that you are the official charged with determining what form that should take. I respectfully and humbly ask that you take into account the character CDR Wylie has exhibited over a lifetime of service as well as the sincerity and integrity with which he has faced the accountability which is to come.

I remain honored to call CDR Wylie "Shipmate" and "Friend." If there is anything else I can relate in order to help you make the difficult decisions ahead of you in this case, I am at your disposal at work (703-697-7000 / (b) (6) or at home

(b) (6)

Very Respectfully,



CHARLES P. GOOD
CAPT, USN



DEPARTMENT OF THE NAVY
AEGIS TRAINING AND READINESS CENTER
5395 FIRST STREET
DAHLGREN VIRGINIA 22448-5200

IN REPLY REFER TO

5800
Ser ANOO/855
25 Oct 2011

From: Commanding Officer, AEGIS Training and Readiness Center
To: CAPT Carole Gaasch, JAGC, USN,
Senior Military Judge, Western Judicial Circuit
Navy-Marine Corps Trial Judiciary

Subj: CHARACTER REFERENCE ICO CDR JAY D. WYLIE, USN

1. This character reference is provided at the request of CDR Jay Wylie for the purposes of his sentencing hearing.
2. CDR Wylie and I served together in USS CARNEY (DDG 64) during the mid-1990s. He was a direct report to me, and I found him to be an effective junior officer who fervently loved the Navy. CDR Wylie was a model division officer who excelled in all aspects of his job. From equipment maintenance to personnel matters, he took an active approach to leadership and delivered purpose, motivation and direction to his assigned personnel.
3. Additionally, as the Anti-Submarine Warfare Officer, he excelled in the tactical aspect of his job, ensuring that the ship was ready to meet any submarine threat during CARNEY's maiden deployment. He was extremely knowledgeable and provided sound advice to decision makers during exercises and real-world operations.
4. Finally, CDR Wylie was an outstanding "utility infielder". He was one of those junior officers that stepped up and assumed responsibility, regardless of who should have done the work. He put the ship first and that is one of the reasons CARNEY was so successful during the 1990s. CDR Wylie made a far-reaching and long-lasting positive impact on the ship.
5. If you have any questions or require further information, I may be reached at (b) (6)


IAN M. HALL

25 October 2011

FROM: Paul D. Huscher

TO: Captain Carole Gaasch, JAGC, USN, Senior Military Judge, General Court-Martial ICO CDR Jay Wylie

Subj: LETTER OF SUPPORT FOR CDR JAY WYLIE

1. I have known CDR Wylie for about four months, and without reservation I believe that he is one of the most dedicated naval officers I have ever known in more than 32 years of Federal Service, 28 years as an active duty naval officer and 4 years as a Navy civilian.

2. Since being assigned to CNSP N44 Directorate, CDR Wylie has taken the initiative to volunteer to work the hardest and most complex projects always producing stellar results. His contributions have been significant and overwhelmingly positive. His tireless efforts, subject matter expertise and infectious "can do" attitude have improved productivity, increased efficiency and positively impacted morale.

3. CDR Wylie hasn't let this incident affect the way he approaches his work. CDR Wylie has contributed significantly to numerous critical projects as a part of CNSP N44. He spearheaded efforts to identify and prioritize the top twenty significant issues facing surface combatants, and lead N44 efforts to present these findings at the Surface Combatant Operational Advisory Group conference. These inputs will help shape the funding of key initiatives to keep surface ships in peak material condition and fully combat ready. Additionally, CDR Wylie was instrumental in developing the Type Commander Material Inspection process and our transition to a new N44/N45 staff organization, a concept designed to help surface ships in the Pacific Fleet identify shortfalls in manpower, training, and material condition. Finally, CDR Wylie has been a superb tactical and technical advisor to me, commenting on Air Intercept Controller/Anti-Submarine Tactical Air Controller manning and training, AEGIS Combat System operations and maintenance, Anti-Submarine and Anti-Surface Warfare and Ballistic Missile Defense. His vast experience and tactical skill has proven time and time again to be an invaluable resource.

These accomplishments are all the more impressive as CDR Wylie has done this while simultaneously recovering from alcoholism. He goes to multiple Alcoholics Anonymous and Navy continuing care meetings as well as psychology appointments to help him overcome his alcoholism and Post-Traumatic Stress Disorder (PTSD). He has made every effort to schedule these events outside of working hours, and has made getting his tasks done around these additional commitments his priority. He has been sober for over four months, and displays an unwaveringly positive attitude. He is always willing to assist others in projects and selflessly volunteers to sit in on meetings or other events where he can be of assistance. Though I know he is under enormous pressure due to his legal situation and ongoing recovery, he has not once let it affect his performance or his demeanor.

4. I am so impressed with CDR Wylie that I have requested that he be assigned to me for the duration of his assignment to CNSP. I need him to support me as we transition to a N44/N45 organization because I know his unparalleled skills and ability will make this re-organization smoother, more efficient and more effective. I am available to discuss this matter or answer any question you might have. I can be contacted at

(b) (6)



P. D. Huscher
Deputy ACOS CNSP N44

HMCS(SW/FMF) Charles W. Kirkman, USN, Ret.

(b) (6)

August 26, 2011

Dear Captain(Sel) Sullivan,

I served as the Independent Duty Corpsman aboard USS KIDD (DDG 100) from March 2005 to October 2009 and worked under Commander Jay Wylie throughout his time as Executive Officer.

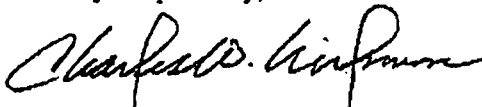
During the long and arduous precommissioning period in Pascagoula, Mississippi, our ship and crew faced many significant challenges that demanded the presence of a creative and effective leader capable of navigating the crew through the uncertain times that we experienced in the wake of Hurricane Katrina. Our ship, as well as all local support and construction activities, had sustained severe damage. Commander Jay Wylie was that leader! From his daily khaki call to department head and LCPO meetings and Planning Board for Training, to frequently getting out among his crew and seeing firsthand what was happening, he consistently demonstrated his genuine concern for the mission accomplishment and true welfare of his crew. He was both a coach and a director who could read people and situations. We knew what was expected of us, he knew the direction to take and, together our crew brought a badly damaged ship to life and exceeded the expectations of many. As you may be aware, by instruction, the ship's Independent Duty Corpsman is allowed direct access to, and works primarily for, the Executive Officer on all matters related to medical administration, and reports to the Commanding Officer, via the Executive Officer, for all urgent matters related to crewmembers' health. As the ship's "doc", I often met with Commander Wylie to discuss a wide range of topics from medevac requests to medical supply and readiness issues and more. In every instance, I received and appreciated his guidance and full support.

Following commissioning, as KIDD headed to sea enroute to San Diego, the ship made several port visits to Naval Base Mayport, FL for ATG certification purposes. Shortly after, KIDD visited the island of Curacao where the crew enjoyed liberty. Prior to any port visits, whether in the U.S. or abroad, Commander Wylie would meet with the ship's senior leaders to remind them of the importance of stressing to their Sailors the need to conduct themselves in the highest fashion while representing USS KIDD, the Navy and the United States. Before every port visit, he followed with briefings to the crew in which he spelled out the risks and dangers specific to that port and emphasized the importance of taking care of each other on liberty. From the Chiefs on down to the most junior Sailors, we already knew, but this drove home even more that we had an XO of the highest caliber and integrity. Our crew followed his strong example of proper personal conduct.

As a result of Commander Jay Wylie's intrusive leadership, he had the respect and admiration of our crew. KIDD was recognized along the waterfront as having an exceptional and professional crew which can be attributed to the leadership we received. He is an outstanding officer and leader. I would proudly serve under Commander Wylie again in any situation, time, or place.

If I may be of any further assistance, please do not hesitate to contact me at (858) 552-8585, extension 7572, or by email at (b) (6)

Very Respectfully,



Charles W. Kirkman

12/1

26 October 2011

Dear CAPT Gaasch,

This letter provides character reference for Commander Jay Wylie who is scheduled to appear before you this week. I have known Commander Wylie for over ten years and have personally observed his professional performance during two high profile operational tours. Commander Wylie first served as my Operations Officer on USS BENFOLD (DDG 65) from 2000 to 2001 and several years later we again served together at THIRD Fleet where Commander Wylie was assigned as the N-7 JTPEX Planning Officer while I served as Chief of Staff. During these two tours Commander Wylie's performance was nothing short of spectacular. In between these tours I have kept in periodic contact with Commander Wylie and his family both as a mentor and as a friend.

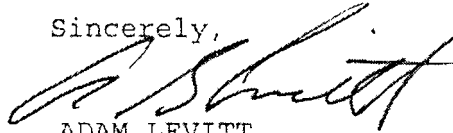
Commander Wylie clearly stood out as my best Department Head on BENFOLD and was unquestionably the finest Operations Officer I have ever observed during my twenty-seven year career, including three Commands at Sea. Operationally and tactically I would describe Jay Wylie as brilliant. During this period BENFOLD completed Integrated Training workups, including complex live fire events and deployed to FIFTH Fleet as the Alternate Air Warfare Commander for the CONSTELLATION Strike Group. To place this deployment in context - we deployed shortly after the attack on the USS COLE and conducted extensive operations throughout the Gulf including Iraqi oil counter-smuggling operations in the Northern Arabian Gulf. Commander Wylie demonstrated exceptional professionalism and excelled as a leader within the BENFOLD Wardroom, where he served as a role model and helped train the Junior Officers. He was well respected by both his peers and subordinates throughout the crew and enjoyed an unparalleled reputation Fleet wide for his peerless skills as shiphandler, tactician, leader and mentor.

At THIRD Fleet - Commander Wylie again demonstrated his exceptional abilities as he designed, planned, and executed the capstone training and certification events for our deploying Carrier Strike Groups. Commander Wylie made optimal use of both live and synthetic training environments to provide both Carrier Strike Groups and independent deployers with the most realistic training possible. During this period THIRD Fleet was challenged to reduce at sea steaming training days due to budgetary constraints and successfully implemented Joint Fleet Synthetic Training as the certification event for deploying Strike Groups. Commander Wylie's outstanding innovation was the driving force behind Navy's Fleet Synthetic training initiative.

I cannot comment on the specific events that resulted in Commander Wylie appearing before you, but I can tell you without reservation that Jay Wylie is one of the finest Naval Officers that I have ever served with. I have trusted him implicitly with my ship and crew and he is the officer I would want with me in combat. This is an

exceptionally skilled and dedicated officer who has great potential and is a valuable asset to our Navy and our nation. Please take into account his unparalleled service as you review his case.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Levitt", written in a cursive style.

ADAM LEVITT

CAPTAIN, U.S. Navy

[Print](#) | [Close Window](#)**Subject:** Fwd: Navy Commander Jay D. Wylie**From:** (b) (6)**Date:** Fri, Aug 19, 2011 3:37 pm**To:** (b) (6)**Cc:** (b) (6)

Jay,

Here is the statement from Ellen that we discussed. I know she has called Elizabeth, and is more than willing to talk further about my case. She has offered to attend any proceedings that I face as well.

V/R,
Jay

From: (b) (6)**To:** (b) (6)**Sent:** 8/19/2011 10:36:37 A.M. Pacific Daylight Time**Subj:** Re: Navy Commander Jay D. Wylie

My name is Ellen Sattler-Harpin. I'm the founder of The Ships Project, which for nearly 10 years has been sending handmade gifts to deployed troops. It is through the project that I met CDR Jay Wylie, who then commanded the USS MOMSEN. Jay first wrote on 10 Dec 10 to thank me for the packages I'd sent to his crew. That alone sets him apart as we rarely receive responses.

We found we had a lot in common, both coming from Southern California. My husband is former Navy, and I spent many years aboard the Navy Base that was here in Orlando as a volunteer case worker with the American Red Cross. I've been around the Navy for decades and have met many people; few have impressed me as much as Jay Wylie has. His kindness, even in the midst of his own difficulties, his compassion, and his willingness to always listen and encourage, to give sound and thoughtful advice has made him more a son to me than a friend. I love, admire, and respect this decent, honorable, and very patient man.

Jay is not perfect and apparently made some mistakes due to his alcoholism. I will not attempt to justify his drinking, though even as a non-drinker, I understand it. I saw enough inebriated officers while aboard the base here in Orlando, and I saw some egregious behaviors by these officers at parties and even at gatherings at Red Cross. There were many times when we had to call the base police to remove a drunken officer who was behaving in ways that were clearly inappropriate. A few days later, the officer would be back in command, and commanding well. Few expressed any remorse or contrition. Jay has behaved honorably by admitting his mistakes and seeking to make amends. Jay never denied that alcohol consumption in social settings affected him, and yet his crew continued to respect and admire him. He seeks daily to make amends.

I've never encountered a captain who cared more about his crew than Jay did. He talked with such pride about how hard these sailors worked and from letters I received from these sailors, I know they felt appreciated. When a sailor writes to thank me for his hat and says CDR Wylie looked him in the eye and addressed him by name when praising his work, it says a great deal about Jay's character. I've heard Jay described by other officers as someone who knows how to command using respect and

appreciation rather than by fear and intimidation. I've seen those used too often. Jay really sees the people to whom he is speaking and listens to them. He is someone who has the power to make a difference in the lives of sailors.

(b) (6) When I checked the MOMSEN's website and saw that Jay was no longer there, I knew that I had to make contact with him. This was a man we didn't want to lose from our lives. I was able to locate Jay in San Diego. We've been in close contact ever since, and he, (b) (6) will always be a part of our lives. Jay has been a blessing to us in many ways. I asked him to be one of the executors of our estate, should the time come, and to ensure that our young grandson, (b) (6) for whom we have custody, is properly cared for by (b) (6) but Jay is a man of integrity, compassion, common sense, and commitment. I felt more comfortable entrusting our (b) (6) welfare to our (b) (6) with Jay as back-up than I would have felt with anyone else as back-up. Jay would be a wonderful role model for our (b) (6) if the need ever arose. We sleep better at night knowing Jay is standing watch for us.

Jay and I talk frequently. Recently, I went through some serious medical problems again, and they left me so depressed that I felt there was no more hope, that I'd never be able to be the grandmother/Mom to our grandson that I wanted to be. Jay called frequently and listened patiently. I am doing better and feeling very good, and I know that Jay Wylie is as near as the phone. My husband has seen the change, and my (b) (6) says "Grandma is happy and smiles again because of Mr. Jay." (b) (6) and considers Jay his "good friend." (b) (6) takes an interest in Jay's (b) (6) (b) (6) and likes to send (b) (6) treasures from his own collections of shells and other things that would appeal only to a little boy.

I've read bits and pieces about the allegations against Jay. They are so anathema to the man I know, to the "adopted son" I adore. My husband is arranging his schedule so that I can fly to California to support Jay and (b) (6) and help wherever I can. I haven't flown since 1971, so this is not insignificant. Jay is not perfect, and no one is, but he's perfect in our eyes. I hope he will be able to avoid brig time, not only for the sake of (b) (6) but for us, too. We need this man in our lives, and he has so much to give, so much to share.

He attends AA regularly and has more than 115 days of sobriety. He is working the Twelve Steps of Alcoholics Anonymous, is receiving therapy, and he continues to love and give. Sometimes, isolating an offender from society is necessary to protect society. This is a case where isolating a man would diminish society. Jay has the ability to reach out, listen, and encourage, characteristics that are so often lacking. I am here today because of Jay's love, encouragement, and support. We need this man in our world. Please let him continue to give to others as he provides for his young family.

Respectfully/
Ellen Sattler-Harpin

(b) (6)

From (b) (6)

To (b) (6)

Sent: 8/20/2011 12:05:26 P.M. Pacific Daylight Time

Subj: Re: The impact on me

To whom it may concern:

Hello, my name is (b) (6) I am a friend of Mr. Jay Wylie's acquainted from SARP treatment 25 May to 14 June. We have remained friends since then visiting weekly at our continuing care therapy meeting and random emailing. This Gentleman has been a hero in my eyes thru his treatment and a true representative of his successes. Meeting him in therapy has impacted my perspective on what I wanted out my treatment. I had someone to look up to and learn from. Openly expressing the changes in his life because of his sobriety gave me a little more and more insight thAt this battle it's something that Anyone can challenge and overcome. I see him becoming more and more of a newly developed citizen that's made better changes for himself and all around him. I'm proud to have someone as strong willed as him to call my friend. I will continue to look up to all his successes. Thanks for saving me as a person with your life struggles and experiences.

Sincerely,

(b) (6)

Sent from my iPhone

On Aug 19, 2011, at 3:32 PM, (b) (6) wrote:

Meeting you in therapy has impacted my perspective on what I wanted out my treatment. I had someone to look up to and learn from. Openly expressing the changes in your life because of your sobriety gives me a little more and more insight thAt this battle it's something that Anyone can challenge and overcome. I see you becoming more and more of a newly developed citizen that's made better changes for yourself and this around you. I'm proud to have someone as strong willed as you and I will continue to look up to you through all your successes. Thanks for saving me as a person with your life struggles and experiences.

Sincerely,

(b) (6)

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I meet Commander Wylie at S.A.R.P. and my first impression was to watch what I said give him the most respect that I could in fear that I would scolded or treated like I was nothing but a subordinate which was the scum of the earth...

I soon found that Commander Wylie was the most down to earth and easiest officer to talk to and did not judge me for the things I have been through. In our group he gained our trust and respect. I believe he has made a conscious and hard decision to stay sober; it's too easy to revert to our old habits and give up. It is hard to express how bad of a place I was in when I got to S.A.R.P. but, I was able to realize my life was worth living and even though my marriage was failing that I could still be worth something to someone. He was always there to offer a helping hand or listed if I needed someone to talk to. He has become a reliable source for me if I need advice or even an ear to vent to and work out my frustrations.

I still keep in touch with members of the group and we all have a renewed since of faith in our khaki leaders, all because one person treated each of us with respect and to show that even the leadership could be human too. Commander Wylie told me a story of the men he served with and how he would have traveled to hell and back for different individuals. I would have been honored to of had him as my Commanding Officer, I would go to hell and back for this man. It is unfortunate that the navy will be losing the most caring and honest officer I have ever known.

(b) (6)

2/16



Substance Abuse Rehab Program
Naval Station Clinic-Bldg. 268
3075 Corbina Alley
Suite 1
San Diego, CA 92136-5192

October 13, 2011

To Whom It May Concern,

This is in reference to CDR Jay Wylie and his progress in the Navy MORE (My Ongoing Recovery Experience) program. As CDR Wylie's Navy MORE Recovery Coach, I am pleased to report that he has been engaged in the on-line web based program since 01JUN11, has completed four of the seven modules, has returned all recovery coach phone calls and emails, and has offered to share his experience, strength and hope by volunteering as a speaker at SARP, Pt. Loma in-patient program. CDR Wylie remains highly motivated, appears to be working a positive program, reports he is attending weekly 12-step, meetings, working with a sponsor and takes suggestions to support his ongoing recovery process.

Please let me know if I can be of any further assistance.

Sincerely,

Ms. Tracy Jordan-Wells, CADC II/LAADC
Navy MORE Recovery Coach
(619)556-6105-office
(619)556-8413-fax

(b) (6)

DE D FOR ID

Defense Exhibits E-H removed under (b)(6)

Battle stress may lead to misconduct

Posted 7/1/2007 7:16 PM

By Gregg Zoroya, USA TODAY

WASHINGTON — Battle stress may cause combat-hardened Marines with clean records to get into trouble after they return home, according to new Marine Corps research.

The Marines have a plan to help these troops but not the resources to implement it, said a leading mental health expert with the Corps. Stress-related misconduct can involve drug and alcohol abuse and may result in dismissal from the service and the denial of Department of Veterans Affairs services.

In the first four years of the Iraq war, 1,019 Marines were dismissed with less-than-honorable discharges for misconduct committed after overseas deployments, said Navy Capt. William Nash, who coordinates the Marines' combat stress program. At least 326 of the discharged Marines showed evidence of mental health problems, possibly from combat stress, according to the Marine study.

Nash said he urges that "any Marine or sailor who commits particularly uncharacteristic misconduct following deployment ... be aggressively screened for stress disorders and treated."

He said the screening results could be used to ease the tough military prosecution of misconduct in cases involving post-traumatic stress disorder. USA TODAY reported in November that veterans with less-than-honorable discharges are usually denied health care services by the VA. Nash's mental health study was conducted after that article was published.

"If a Marine who was previously a good, solid Marine — never got in trouble — commits misconduct after deployment and turns out they have PTSD, and because of justice they lose their benefits, that may not be justice," Nash says.

The Marine Corps and Navy, which provides medical services to the Marines, have not started screening because they don't have the mental health workers

to provide it, Nash said. His proposal has been pending since early this year.

The chronic shortage of military mental health caregivers is highlighted by several recent task force investigations, including one by the Defense Mental Health Task Force created by Congress last year.

Co-chaired by Navy Surgeon General Donald Arthur, the task force report released last month called military mental health staffing "woefully inadequate" and complained of a continuing stigma within the military toward PTSD.

When he presented his research results June 19 in a public forum, Nash said Marines are responsible for their actions but stress can damage areas of the brain that influence right and wrong decisions. "It can be very, very hard for them to really care even about obeying the rules," he said.

The Marine Corps had no information about whether the 326 Marines who received less-than-honorable discharges and suffered mental health problems were denied VA health care services.

Marine Pvt. Cody Miranda, a 18-year veteran, was demoted from staff sergeant this year for behavior that included alcohol-related disorderly conduct. The Camp Pendleton-based Marine is a former reconnaissance specialist who fought in the Persian Gulf War and during the Iraq invasion. Diagnosed with PTSD, he faces a court-martial for disrespectful behavior. His lawyer, Marine Capt. Bart Slabbeborn, will argue at trial that PTSD influenced Miranda's behavior.

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Your Honor, thank you for the opportunity to speak. I am grateful for the chance to be able to share my perspective on events after six months of sobriety and much clearer thinking than I have been able to do in years.

Even in my wildest dreams, I never envisioned that I would be standing before you today. Until my incidents, other than an occasional speeding ticket, I have never broken a law. I have always believed in the law, and have done my utmost to obey the rules and regulations established for me and our society. I still have a hard time accepting that I am capable of the crimes I have been accused of. But I now understand that I am fully responsible for them. I, and I alone, am responsible and accountable for my conduct and must face the consequences of my actions. However, there are some people in my life I would like to speak to regarding this.

To my Family, and especially to (b) (6)

I have worked tirelessly for almost twenty years to defend you and your liberties, and to provide for you, and you have always stood by me. The separation from you has been nearly unbearable, as have the stresses and long hours required by this career. I thought I needed alcohol to get me through these trials and tribulations, but now I realize it was your love and support that has been sustaining me. You put up with my drinking because you saw the stress I was under, and my deep seated unhappiness, and you thought it would provide me some relief. You saw the good in me when I could not see it in myself. If only I had realized then what a gift I had in you. Unfortunately, I started drinking before we met, and so I stayed with my old patterns instead of realizing how much better my life could be with you in it and alcohol out of it. I can never truly make amends for what my drinking has put us through, but I can promise that together we can achieve a new future, a sober one, and one where we can achieve tremendous happiness. My life has improved immeasurably being sober but this is only because it has made me realize how beautiful and precious you are, and because I now realize more so than ever before that you (b) (6) are the only things that matter to me.

To the victims:

I cannot apologize enough for or **be more ashamed of** my actions. I take full responsibility for them, and if there were any way to **take them back, I would in an instant.** I will have to bear the guilt and shame for these events for the rest of my life. I can only hope that someday you will find it in your hearts to forgive me.

I also hope that you can come to understand that my actions were the result of my alcoholism – I would never have done anything so reprehensible while sober. While this does not absolve me of any responsibility, I now know why these things happened, and how to prevent them from ever happening again. I am an alcoholic, and have had to admit that I am powerless over alcohol. I cannot take a single drink – the potential risk is too great, the potential effects far too devastating. I did not understand how bad my disease was until I received treatment; I will have to use my Higher Power, my family, and Alcoholics Anonymous for the rest of my life to stay sober.

But, I will be eternally grateful to you for helping me to realize that I am an alcoholic. I did not realize nor could not accept that I was until I hit rock bottom. Thanks to you, I have had to face my condition head on and start my life over. You probably saved my life, and potentially the lives of others. I can never thank you enough for this. I am just sorry that my disease affected you so horribly, and will always realize that the cost of my sobriety is a debt that I can never truly repay.

To my peers:

I know my actions have surprised and disappointed you all. I could have and should have reached out to you more often instead of reaching for the bottle. I should have done more to protect myself and the brotherhood we shared. We all dealt with many of the same battles and stressors, but I failed to deal with them in the right way. However, I know many of you may be struggling with the same demons that have haunted me. I can only offer you my support and an example for a way out. Alcoholism is an insidious and cunning adversary, and it may be creeping up on you. If it can get me, it can get anyone. But you don't have to find out the hard way like I did. Let me call the turn for you – I implore you to do an honest self-assessment and seek help if you suspect you have a problem. If my last act of service can be to help even one of you find the road to recovery, I will be satisfied that some good has come from my short-falling.

To my Crew:

I broke faith with you – for this I make no excuse or mitigation. I let you down. After all the times I exalted you to not let alcohol get the best of you, it was I who failed and let it get the best of me. I will never forgive myself for letting down the bravest 300 souls I ever served with. I realize that many of you will never forgive me for the shame and hardships I have put you through. I can only ask you remember what we accomplished on deployment with pride, and know that our courage under fire made the world a better and safer place. We saved over 30 mariners at sea, interdicted more than 20 pirates and a pirate logistics vessel, destroyed 2 pirate skiffs and countless pirate equipment and weapons, and rescued 24 merchant seaman from certain captivity at the hands of pirates. We held the line against rogue dictators, peer competitors, terrorists, and pirates in a time when few of our countrymen were willing to do so. No one can ever take that away from us. I also hope you can understand that I would never have done anything wrong on purpose – it was my drinking that led to my downfall. I earnestly hope that you can learn from my example, both to avoid substance abuse on your own, and to provide an example of admitting your failings and recovering from them. I will "Rise Above" this...and I hope that someday you can put this behind you, too. I will never forget you – it is your example which makes me even more committed to my recovery, and to my goal of helping others do the same.

To the Navy:

I have served honorably, selflessly, and faithfully for almost 20 years. I have risked my life, and have accomplished every mission assigned successfully. And, I brought all my Sailors home alive. Leading Sailors in combat and other operations at sea has been the most gratifying experience of my life, aside from being with my family. However, I know that I have forfeited the opportunity to ever do this again; I will never again lead troops in combat, nor should I – I could never fully regain your trust and confidence. This has been a most bitter pill, and one that will haunt me to my grave. Losing my command was like losing my right arm. My most heartfelt desire now would be to continue to serve my Nation and my Navy tactically and operationally. I would jump at the chance to train others, run exercises, develop tactics – whatever I could to continue to make our Navy more combat effective. I know commands such as Tactical Training Group Pacific and CNSF N44 are chronically undermanned, and I know my experience and proven work ethic could prove extremely valuable to such a command. However, I accept this too is unlikely, and will do the best I can to move on and to continue to serve my country as best I can in other ways.

The bottom line is that I am an alcoholic. That has been the most shocking, core-shaking revelation and the most difficult admission of my life. It is one I would not have been able to recognize or to make six months ago. But now I know it is the truth. I have a life-threatening and life-long disease, one that there is no cure for. The best I can hope for is to keep it in remission. Like a Diabetic, I can only treat my condition.

But I have found a treatment that works – Alcoholics Anonymous, my higher power, and my family. As Diabetics have Insulin to keep them healthy, I have the AA program. Six months ago I recognized for the first time that I was a drunk and an alcoholic. Now, after treatment and working the 12 step program, I can gratefully say I am an alcoholic, but I am no longer a drunk. I am extremely grateful for the treatment I have received from the Navy for my alcoholism, as well as the kindness and consideration I have received for my well-being as well as the well-being of my family. I have often felt it was more than I deserved. I know that without this treatment, I would have no hope, and could not possibly be sober today. You may not be able to fully understand what a tremendous gift sobriety is unless you have experienced alcoholism first hand, but I can assure you that this treatment has been a life-changing, maybe even life-saving, event. No matter what else happens, I will always remember how the Navy saved me from a miserable life of alcohol dependence and abject hopelessness. Now, thanks to you I can go back out into the world sober and again be a productive member of society.

I did not become an alcoholic over night. It was a slowly progressing and insidious disease that gradually began to take over my thinking, influence my daily activities, and to take over every aspect of my life. I realize now that I was integrating every activity in my life with drinking. My mind would rationalize almost any thought that got a drink in my hands. I drank to forget the horrors I had seen over a 20 year career filled with multiple deployments to combat zones and operational accidents, to fight the stress of surface warfare, the frustration at strategic decisions that seemed to be eviscerating the Navy I so loved. I drank to fight the nightmares and to help me sleep, to quell the fears I felt every day, fear of failing, of letting down my shipmates, of making a mistake that would hurt my crew. I drank to kill the pain of prolonged separation from the family I love so much, the utter loneliness I felt as I became more senior, and the sheer boredom of prolonged periods at sea or away from home. I drank to try and wash away the memories of abusive leaders who berated me, who found my every mistake or short-coming and turned it into an opportunity for biting ridicule. But, I also started to drink to celebrate, to socialize, and to feel happy. Every event, good or bad, became an excuse to drink. It had come to the point where the only time in my life I was truly happy was with copious amounts of alcohol coursing through my veins, washing away all the fears, personal defeats, or worries I faced. I came to believe that I was successful because of my drinking – alcohol was the only thing keeping me functional, and keeping me from suicide. In fact, I was successful in spite of my drinking, and I could not see how terribly alcohol was unraveling my life until it had nearly destroyed me.

Sadly, I fear my story is not unique. I grew up in the Navy watching many peers and seniors I respected drink their troubles away. For some, I am sure this is not an issue. They were not pre-disposed to alcoholism as I have come to discover that I was. But I fear many others continue to suffer in silence. I turned to alcohol to deal with my problems instead of turning to a Chaplain, or to a mental health

professional. Many of my peers have chosen to do the same for the same reasons I did – because asking for help is perceived by many in the Fleet as a sign of weakness, or due to fear that such a request for help would call into question their security clearance or fitness for command. Or, it may simply have been due to pride, or a lack of knowledge about programs that were available. I had never heard of many of the programs available to those with substance abuse issues until I was in treatment myself...and I was a Commanding Officer. Perhaps the reason for this was the way alcohol and drug program information was delivered to me during department head, Executive Officer and Command pipeline training. Mostly I received very cursory, broad-stroke descriptions of key programs from those who performed such duties as a collateral assignment vice true subject matter experts. For example, the instructor who taught my PCO class about Navy Drug and Alcohol programs was a retired Chief who was not prepared for his brief, started late, and was not able to adequately answer many of our questions. His performance reinforced an impression in many of our minds that the Navy is paying “lip service” to many of these programs in the Fleet, and made me feel like many of my peers are “checking the box” when it comes to drug and alcohol programs. We are making great strides regarding PTSD recognition and treatment, but I fear we are not making such good progress in our drug and alcohol programs.

Your Honor, I recognize that this may be out of your purview, but I implore you to try and grant me an opportunity to help our Navy when it comes to alcoholism. If given the opportunity, I earnestly desire to in some small way repay this debt of gratitude I have to the Navy for helping me to treat my alcoholism. If I could in any way use my recovery as a model for others, or to speak as a credible witness to the dangers of alcoholism, I would relish the chance. I know that my story and what I have learned in treatment could have an impact on our next generations of Division Officers, Department Heads, XO's and CO's – to inform them of the potential dangers associated with poor stress management and substance abuse. My service record speaks to the fact that I was very successful in these types of assignments; I can relate to the experiences and stresses these officers will face. More importantly, I was one of them – my experiences can help them to recognize, and ideally overcome, the same problems in their own lives. My greatest desire is to help my fellow Sailors prevent making the same mistakes I made. I know that my story can help save careers, enhance combat readiness, and improve the quality of life for Navy families...it might even save lives. I have submitted to you an article that I wrote for PROCEEDINGS on the subject ; this article will be published in the December issue, and I hope will be the start of a larger effort to help others face, and beat, their problems with drinking. I have developed an inspirational wristband that has helped me and several others in treatment maintain their sobriety. I have also started a web site and am working on a book that I hope will get my story out to those who are suffering. If permitted to separate honorably, I intend to use the GI Bill to pursue and Masters Degree in Social Work and Doctorate in Psychology so that I can begin to help others find the sobriety, peace, and serenity that I have been able to find. As horrible as this experience has been for all concerned, I am determined to make something positive come out of it. A big part of any alcoholic's recovery is repaying their debts by helping others to recover; I want to do this for my shipmates and their families. The enormous additional stresses we are putting on the force through reduced resources, increasing demands, and ever-increasing OPTEMO and the associated family separation, not to mention the stresses due to combat with an insidious and elusive foe, are driving our Sailors and Marines to abuse substances in record numbers. I humbly pledge myself to do anything humanly possible to help fight this trend and to protect our Sailors and Marines from alcoholism, drug abuse, and ultimately, themselves. I am confident that through these efforts I can turn an extremely negative event into a positive outcome. It may sound cliché, but if I can save one life, repair one career, I feel I will have done a great service to our Navy and our Nation.

This said, I am still fully aware of my absolute accountability and responsibility as a Commanding Officer. I knew exactly what I was getting into when I uttered the phrase "I relieve you, Sir". I was a good Captain – I took my crew into harm's way and returned them all home safe, and victorious. However, I am equally aware of how badly I let them down, these men and women whom I loved as much as my own family. I cannot accept the successes and privileges of command without taking equal responsibility for my failings. I am ready, willing, and able to accept whatever punishment you deem appropriate, and will do so with the most dignity, courage, and faithfulness that I can muster. I will execute your assignment with the same attitude and energy that I have every other assignment in my career. I do ask that you take into consideration my service to country in peace and war, and additionally, I ask for consideration for my family. They have served as faithfully as I have over extended deployments and assignments away from home. They have gone through numerous moves and natural disasters like Hurricane Katrina, all in support of my career. I ask that you consider their service as well as mine, and allow us to retire honorably following my punishment. I would gladly accept retirement at a lower pay grade, but humbly ask that I be allowed to retire honorably in recognition of my years of service, and for the sacrifices my family has made throughout my career. It would also allow (b) (6) to enjoy the benefits that I believe their service has earned. Please do not hold them accountable for my mistakes...and let this story have a happy ending.

It CAN happen to you: A cautionary tale

By

CDR Jay D. Wylie, USN

"That will never happen to me"... I recall thinking this though vividly every time I heard our instructors at Prospective Commanding Officer's (PCO) school and Command Leadership School talk about CO's who had been relieved for cause. I had always been a top performing SWO – the number one Department Head, the number one XO in our squadron, etc. – and felt I was fully ready for command at sea. None of the pitfalls that had befallen other SWOs could possibly catch me.

Then, almost a year into what had been by all accounts a very successful command tour, I found myself standing before my Commodore being relieved of my command for an alcohol related incident. "How did this happen to me", I wondered again and again. After much reflection, the answers to this question have become clear, and I hope that by sharing my experience and revelations I can prevent this from happening to you... because if there is one lesson from my failure, it is that it CAN happen to you.

My Downfall –

Though I can not discuss the details of my misconduct, and I know that alcohol is not an excuse for bad behavior, the fact is that alcohol abuse was a significant causal factor in my downfall. In fact, it is the single most important factor – as it has been in so many other incidents resulting detachments for cause. Simply put, I am an alcoholic. My problems were years in the making – I combated the stresses of a challenging Surface Warfare career with alcohol. My drinking increased as I became a department head, and Executive Officer, and served on a major staff. It increased again during my long separation from family during the PCO pipeline and deployment. The 15 months I spent away from (b) (6) took a severe emotional toll on me, as they do on many military parents, but I chose to fight my stress with the bottle. My family had noticed my drinking, and mentioned it, but I always said that I was just drinking to deal with a specific stress – a test, a major inspection, a big brief, whatever – and that I would slow down after it was over. I told myself the same thing, too, and I believed it. I also began hiding my drinking so that my family would not worry about me. I felt since I was able to succeed on the ship, no matter what the challenge, I would clearly be able to control my drinking. I found that social events, holidays, football season, all became excuses for drinking. I even began planning events around drinking, and the recovery the next morning. I made very careful plans so that I would not have drive after drinking, or that I would have a place to stay if I had been drinking. In short, I felt I was still in control of alcohol, when in fact, the opposite had become true.

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I missed most of the warning signs by rationalizing them away. I started to gain weight, but attributed that to not exercising enough and eating poorly. I tried to diet and exercise more, and though my PRT scores stayed in the "outstanding low" to "excellent high" range, I was always in danger of not passing the body fat due to the empty calories I was taking in by drinking. I also noticed other physiological effects – memory loss, fatigue from poor quality sleep, and upset stomachs the day after a night of heavy drinking. I shrugged all these off as "the price of doing business" – ours is a tough life, I reasoned; we need to be tough to get through it, and for me drinking was my coping strategy for stress. I'd simply have to live with the after effects.

A Long Time Coming -

My drinking started getting really heavy as I encountered the strain of being an afloat department head. I was the Operations Officer on a DDG and a CG, two decidedly demanding assignments. I worked as hard as I could, trying to be the perfect SWO DH. Though some of my Captains were amazing leaders and mentors, others were not. I did not react well to the harsh criticism I received from some, and retreated further into alcohol abuse as a coping strategy. Still, I succeeded – I broke out as the number 1 DH on both ships, and had ever-increasing responsibilities given to me. I felt I could do anything – especially when the reward of a cold beer or strong cocktail awaited me at the end of a hard day or tough underway. I easily slipped into a pattern of drinking to alleviate the daily stress that seemed ever mounting, and in this way I carried on smartly.

I finally managed to find my soulmate during this time – I got married to a wonderful woman who seemed to fully understand my lifestyle and stressors. The first few years of our marriage were great, but she began to notice my drinking and expressed concerns. We talked about it on several occasions, and I tried to cut down. However, this became yet another stressor, as did (b) (6) a couple of years later. Though I absolutely loved being a (b) (6) now the added anxiety and stress caused by family separation, and the demands of (b) (6) became simply more reasons to drink my cares away. Again, the well established pattern of turning to alcohol seemed to carry me through any adversity.

The End of the Line -

Of course now, after losing my command and jeopardizing my career and my future, I see the folly of my justifications. My dependency on alcohol wasn't getting me through anything – in fact any success I encountered was despite my alcohol intake, not because of it. But it took the reality of this situation to make me realize just how self-destructive I had become. I have had the opportunity to reflect on my misfortune, and here are some observations and recommendations which may help you avoid the pitfalls that I became trapped by.

For the CO –

Self – Assess. I recommend that you do an honest self analysis of your use of alcohol using the Drug and Alcohol Program Advisor (DAPA) screening form. Just do it for yourself, and see if you have any problem behaviors. You may be able to self correct, or at least recognize where you may need some help. Amending your behavior will help not only yourself, but also your Wardroom, CPO Mess, and Crew. Seeing you practice self-restraint may help younger Officers, Chiefs, and Sailors avoid the bad patterns I developed at a young age.

Make a Pact – Talk honestly and openly with your XO and CMC. Plan your liberty events and set limits. My XO was with me the night of my incident, but he wasn't tracking my alcohol consumption because I had always handled it before, and he was convinced I could hold my liquor. Had I told him I only planned to have one or two drinks and intended to turn in early, he would have recognized me exceeding my limit and could have helped me control my intake. Don't be shy about voicing concerns or expectations with your Triad. They aren't mind readers, and your example can not only save yourself – it may help save others. I know doing this would have helped me.

Watch you DHs – The Apache school of leadership states "you find a good horse, you ride the good horse until it dies, then you find another good horse". Be careful you are not loading the number 1 DH with every key task in order to ensure success. Help "level load" you DHs...even if that means more risk, and more CO/XO guidance and mentoring to a less capable DH. I often felt alone and totally overwhelmed as a DH – CO intervention can really help alleviate this. Some other practical tips:

- Form teams to help force DHs to work together. One idea is to use a "Voyage Planning Team" to map out each underway period. OPS and NAV chaired our meetings which included every DH and Departmental LCPO (key Divos and CPOs were also invited if they had a stake). By planning collaboratively, we were able to ensure that we got the most out of every steaming day – all the PMS, training, or other evolutions were coordinated to ensure no conflicts and that all plans made sense regarding Time/Speed/Distance. This way the Sonar techs got their stream time for NIXIE, but the Engineers also get their propulsion limiting drills in the schedule. Additionally, now OPS doesn't have to chase everyone down to get inputs...and all the required messages or service requests can be consolidated well ahead of time to prevent crisis management later. The CO's presence helps give basic guidelines and priorities...and once the process is routine, the XO can provide the requisite guidance.

- Shift JO's around. There are some truly amazing Division Officers out there, especially second tour DIVOs, prior enlisted officers, and LDOs. Consider re-assigning these officers to key departments to help manage important projects. A newly qualified SWO First Tour DIVO whose relief is onboard might make a superb A-OPS or departmental training officer. We assigned several officers in this situation to help run training team-admin, TORIS/TFOM, and SWO training in order to help the CICO and TRAINO more on creating a "tactical training cell" to develop more robust training scenarios and to increase overall watch stander level of knowledge. The result will be better preparedness for work-ups, deployment, and ideally, advancement exams. Putting talent where it is most useful and most needed is more important than job titles...and can really help reduce the strain on young department heads.

- Talk to your DHs. Ask them how they are doing, and encourage them to be honest. Share your experiences, and let them know how you felt as a DH, and what worked for you. Do informal counseling over dinner in your cabin with the XO, and ask them what they are doing to reduce their stress. Don't feel you need to force them to admit they are abusing alcohol, but try and get them to channel their stress into healthy activities. And reward them for jobs well done, not with more work, but with time off, or giving them more resources or talent when you can...even if this means assuming more risk in other areas. Assigning more talent will also help DHs learn to delegate, just as you have learned to do.

For the Department Head –

Self-Assess - You are "in command" of your department – take the same steps as your boss to figure out if you are falling into bad habits. It may be soon enough for you to avoid the trap that others have fallen into. Talk with your Departmental LCPO or trusted LDOs or Divos to help discuss your plans (and theirs) for liberty. DFCs are certainly not unique to Commanding Officers!

Use your talent- Again, don't get hung up on job title. I had amazing talent as a DH, but it was not always optimally organized for all the tasks I was assigned. I and one Divo slaved tirelessly on certain projects while other Divos and Chiefs were trying to find things to do past 1400. I finally figured out to make the Training Officer "Future Ops" and CICO "Current OPS". I assigned some hungry first class petty officers (CTs and OSs) to help them manage schools, TADTAR, PQS, TORIS/TFOM and key message traffic, which freed them from admin burdens enough to help me plan. We planned together, and with the Navigator, to ensure the Time/Speed/Distance worked, to seamlessly mesh short term and long range schedules, and to make sure we had all our requirements embedded into the plan.

Find healthy outlets – I can't stress this enough. As difficult as it may sound, MAKE time for healthy habits and PT. Don't fall into the pattern of coming home and drinking to make the day go away. Read, exercise, call a friend, play a video game, build a model, do something to help you alleviate your stress besides always turning to the bottle. I am not advocating that everyone stop drinking all together – however, I am saying to watch your consumption and drink for the right reasons. I didn't jump into alcoholism....I slowly sunk into over years of patterns of bad drinking habits, and by making it my ONLY outlet for stress relief.

My purpose in writing this article is not to make any excuses for my alcoholism. I am still a SWO, and firmly believe it is results, not excuses, that matter. However, had I followed the advice discussed here, or figured out these coping strategies earlier, perhaps I could have avoided the disaster that has befallen me. I write this to serve as a warning to others, and as the first step on my road to recovery. I know many in our culture will continue to believe that they can still do anything, just as I did, but I hope my experience will at least give other pause to re-

consider their lifestyle and leadership methods. I didn't see it soon enough, but now I know it CAN happen to YOU!

APPELLATE EXHIBITS

U.S. v. Wylie
Joint Proposed Elements

CHARGE V: VIOLATION OF THE UCMJ, ARTICLE 133

Specification 1: In that Commander Jay D. Wylie, U.S. Navy, USS MOMSEN, on active duty, did, at or near Victoria, Seychelles, from on or about 31 December 2010 to 1 January 2011, wrongfully and dishonorably become publically intoxicated in front of members of his crew, make unwanted sexual advances and engage in an unwanted sexual contact with Ensign (b) (6), U.S. Navy, a junior officer under his command.

The elements of this offense are:

- (1) That on or about 31 December 2010 to 1 January 2011, at or near Victoria, Seychelles, the accused became intoxicated;
- (2) That, at the time the accused was intoxicated, he was in a public place;
- (3) That, at the time the accused was intoxicated, he was in presence of members of his crew;
- (4) That on or about 31 December 2010 to 1 January 2011, at or near Victoria, Seychelles, the accused made sexual advances with Ensign (b) (6) U.S. Navy;
- (5) That, at the time, Ensign (b) (6) U.S. Navy, was a junior officer under the accused's command;
- (6) That the sexual advances were unwelcome;
- (7) That the sexual advances had the purpose or effect of unreasonably interfering with Ensign (b) (6) (b) (6) U.S. Navy, work performance or created an intimidating, hostile, or offensive working environment;
- (8) That the sexual advances were so severe or pervasive that a reasonable person would perceive, and Ensign (b) (6) (b) (6) U.S. Navy, did perceive, her work environment as hostile or offensive;
- (9) That on or about 31 December 2010 to 1 January 2011, at or near Victoria, Seychelles, the accused engaged in sexual contact with Ensign (b) (6) U.S. Navy, to wit: digital penetration of her vagina with his finger;
- (10) That the accused did so by using force against Ensign (b) (6) U.S. Navy; and,
- (11) That, under the circumstances, the accused's conduct was unbecoming an officer and gentleman.

Specification 2: In that Commander Jay D. Wylie, U.S. Navy, USS MOMSEN, on active duty, did, on board USS MOMSEN, at sea, on or about February 2011, wrongfully and dishonorably encourage Ensign (b) (6) U.S. Navy, a junior officer under his under his command, not to report an incident in which he had sexually assaulted her on or about 1 January 2011 while on liberty at or near Victoria, Seychelles.

The elements of this offense are:

- (1) That on or about February 2011, on board USS MOMSEN, at sea, the accused wrongfully did a certain act, that is: encouraging Ensign (b) (6) U.S. Navy, not to report an incident in which he had sexually assaulted her on or about 1 January 2011 at or near Victoria, Seychelles;
- (2) That the accused did so in the case of himself with reason to believe there would be criminal proceedings pending;
- (3) That the act was done with the intent to influence the due administration of justice;
- (4) That the accused had reason to believe that Ensign (b) (6) U.S. Navy, would be called upon to provide evidence as a witness; and,
- (5) That, under the circumstances, the accused's conduct was unbecoming an officer and gentleman.

Specification 3: In that Commander Jay D. Wylie, U.S. Navy, USS MOMSEN, on active duty, did, at or near Naval Magazine Indian Island, Washington and on board USS MOMSEN, on or about 25 April 2011, wrongfully and dishonorably become publically intoxicated in front of members of his crew, make unwanted sexual advances and then, inside his cabin, engage in unwanted sexual conduct with Engineman Fireman (b) (6) U.S. Navy, a junior enlisted sailor under his command.

The elements of this offense are:

- (1) That on or 25 April 2011, at or near Naval Magazine Indian Island, Washington, the accused became intoxicated;
- (2) That, at the time the accused was intoxicated, he was in a public place;
- (3) That, at the time the accused was intoxicated, he was in presence of members of his crew;
- (4) That on or 25 April 2011, at or near Naval Magazine Indian Island, Washington and on board USS MOMSEM, the

WESTERN JUDICIAL CIRCUIT
NAVY-MARINE CORPS TRIAL JUDICIARY

UNITED STATES)
) CIVILIAN COUNSEL
 v.) COURT-MARTIAL NOTICE
) OF APPEARANCE
)
CDR JAY WYLIE)

1. I, Jeremiah J. Sullivan, III, admitted to practice law, currently in good standing before the bar of the highest court of the State(s) of CA, MA, MD, DC, and, having appeared as counsel in United States military courts-martial on approximately 75 occasions during my legal career, military or civilian, hereby enter appearance as attorney on behalf of the accused in the above captioned court-martial to do all that is necessary in connection therewith. I certify that I am not now de-certified or suspended from practice in Navy-Marine Corps courts-martial by the Judge Advocate General of the Navy.

2. I hereby certify that I have obtained a copy and agree to abide by: (1) the Rules for Courts-Martial and the Military Rules of Evidence set forth in the current editions of the Manual Courts-Martial; (2) United States, JAG INSTRUCTION 5803.1 series (Professional Conduct of Attorneys Practicing Under the Supervision of the Judge Advocate General); (3) NAVMARCORTRIJUDIC INSTRUCTION 5813.4, Appendix B (Uniform Rules of Practice Before Navy-Marine Corps Courts-Martial); (4) WESTERNJUDCIRINST 5813.4 (Western Judicial Circuit Rules of Court); and, (5) if published, the local District Rules of Practice for the Judicial District within which the above-captioned is currently pending. I further certify and agree to provide, upon request by the Circuit Military Judge or designee, a copy of the professional responsibility rules applicable to the Bar of the State in which I am licensed to practice law.

3. Unless indicated otherwise by the accused, all post-trial matters, including the staff judge advocate's or legal officer's recommendation and the accused's copy of the record of trial should be served on the undersigned. For purposes of this trial and all subsequent review matters, notice to and service upon the undersigned may be affected at the address listed below.

Subj: NOTICE OF APPEARANCE ICO US V.

JAY WYLIE

4. Under penalty of perjury, I swear or affirm all information on this notice of appearance is true, correct and complete. Signed this date, 10-27, 2011.

Jeremiah J. Sullivan
Signature

Jeremiah J. SULLIVAN, III
Printed full name under which licensed to practice law

CA, DC, MA, MD
State(s) admitted to practice law

220311
State Bar Number(s)

Mailing Address: 2404 BROADWAY
SAN DIEGO, CA 92102

Voice Telephone Number: 619.578.5958

Facsimile Telephone Number: 619.578.5995

Email Address: **(b) (6)**

DEPARTMENT OF THE NAVY
GENERAL COURT-MARTIAL
NAVY AND MARINE CORPS TRIAL JUDICIARY
WESTERN JUDICIAL CIRCUIT

UNITED STATES

v.

JAY D. WYLIE

CDR / O-5 / U.S. Navy

MEMORANDUM
OF
PRETRIAL AGREEMENT

(Part I)

I, COMMANDER JAY D. WYLIE, U.S. NAVY, the accused at General Court-Martial, in exchange for good consideration and after thorough consultation with my defense counsel, do fully understand and agree to the following terms and conditions:

1. I agree to enter pleas of GUILTY as indicated below. I do so fully understanding that the Convening Authority may approve any sentence adjudged by the court-martial, but shall order executed only that sentence which does not exceed the lesser of the sentence contained in Part II of this Agreement (the Maximum Sentence Limitation Appendix) or the sentence adjudged by this court-martial.
2. This Agreement (Parts I and II) constitutes all the conditions and understandings of both the government and myself regarding the pleas in this case. There are no other Agreements, written or otherwise.
3. I understand, and the sentence limitation portion of this Agreement addresses, each of the following distinct parts of the sentence that may be adjudged in this case: (1) dismissal, (2) confinement and/or restraint, (3) forfeiture and/or fine, and (4) any other lawful punishment.
4. I am satisfied with my defense counsel in all respects and consider them qualified to represent me at this court-martial.
5. I am entering into this Agreement freely and voluntarily. Nobody has made any attempt to force or coerce me into making this Agreement or into pleading guilty.
6. I have been fully advised by my defense counsel of, and I fully understand and comprehend the meaning and effect of, my guilty pleas and all attendant effects and consequences, including the possibility that I may be processed for administrative separation from the United States Navy. I

AE III

understand that such an administrative discharge could result in an other than honorable characterization of service, unless otherwise limited by this Agreement, even if part or all of the sentence, including a dismissal, is suspended or disapproved for any reason.

7. I understand that I may ask permission to withdraw any of my pleas of guilty at any time before they are actually accepted by the Military Judge. I also understand that I may ask to withdraw any of my pleas of guilty after they have been accepted, but before sentence is announced, and the Military Judge may, at his/her discretion, permit me to do so.

8. I understand that this Pretrial Agreement may become null and void, and the Convening Authority can withdraw from this Agreement, in the event that any of the following occur:

(1) I fail to plead guilty as required by this Agreement;

(2) The court refuses to accept any of my pleas of guilty;

(3) The court sets aside any of my pleas of guilty for whatever reason, including upon my request, before sentence is announced;

(4) I fail to satisfy any material term of this Agreement; or

(5) I fail to plead guilty as required by this Agreement at a rehearing should one occur.

9. I understand that if this Agreement becomes null and void, then my offer to plead guilty and enter into this Agreement cannot be used against me in any way in determining whether I am guilty or not guilty of the charges alleged against me at this court-martial or in determining an appropriate sentence.

10. I understand that if the adjudged sentence includes either a dismissal and confinement, or confinement in excess of six months, whether the sentence is suspended or not, Article 58b of the UCMJ requires the automatic imposition of forfeitures of all pay and allowances per month due during any period of confinement served, unless the Convening Authority takes action to waive or defer the automatic forfeiture provision. Forfeitures, whether adjudged or automatic, take effect upon the Convening Authority's action in this case or 14 days after sentence is adjudged, whichever is earlier. I understand that I may request in writing that the Convening Authority defer execution of forfeitures until the Convening Authority takes action in this case. I also understand that I may request that automatic forfeitures be waived by the Convening Authority for a period up to six (6) months from the date of the Convening Authority's action.

11. I understand that should I commit any misconduct (i.e., any act or omission in violation of the UCMJ which constitutes a material breach of this Agreement) after the signing of this Pretrial Agreement but before the date of trial, such misconduct may be the basis for the Convening Authority to unilaterally withdraw from the Pretrial Agreement, rendering the entire Agreement null and void. I further understand that if I commit misconduct after the date of trial, but before the date of the Convening Authority's action, the Convening Authority may, after first complying with notice and hearing requirements consistent with Article 72, UCMJ and R.C.M. 1109, withdraw from the sentence limitation provisions of this Agreement. Should the Convening Authority withdraw from the sentence limitation provisions of this Agreement based on misconduct occurring after the date of trial but before action is taken in my case, I understand that any provisions in the Pretrial Agreement relating to suspension of any aspect of my sentence would become null and void in all respects, and that the entire sentence adjudged at my court-martial may be approved and imposed upon me.

12. I also understand that should I commit any misconduct after the date of the Convening Authority's action, or violate any of the conditions of suspension stated in this Agreement during the period in which any part of my sentence is suspended, the Convening Authority may, after complying with the procedures set forth in R.C.M. 1109, vacate any periods of suspension agreed to in this Pretrial Agreement or as otherwise approved by the Convening Authority, and that previously suspended portion of my sentence could be imposed upon me.

13. I understand that I may be placed on appellate leave under the provisions of Article 76a of the UCMJ, if the sentence, as approved, includes an unsuspended dismissal. I understand that an individual placed into an appellate leave status will normally not receive any pay or allowances. I further understand that receipt of pay and/or allowances while in an appellate leave status will depend on the amount of accrued leave I have accumulated and chose to use, and on the sentence awarded by this court-martial. Furthermore, I agree that, should a dismissal be adjudged, I will submit, within fourteen (14) days from the date of the conclusion of my trial, a written request to be placed on appellate leave.

14. My defense counsel has advised me that my guilty pleas to the charges and specifications contained in this Agreement may preclude me from the ownership, receipt, or transport of any firearm that has been transported in interstate or foreign commerce under 18 U.S.C. 922 (g).

15. My defense counsel has advised me that my guilty pleas to the charges and specifications contained in this Agreement may result in my discharge from the Navy for misconduct, either by dismissal or administrative means. This may require me to repay the

Government for any and all advanced educational assistance benefits that I have received in accordance with JAGMAN 0171. The repayment will occur in the case that my early separation from the Navy precludes me from fulfilling any additional service requirements that were required as consideration for this advanced educational assistance.

16. My defense counsel has advised me that a dismissal that is adjudged and ultimately approved in my case may adversely affect my ability to receive retirement pay and any and all other benefits accrued as a result of my military service.

17. I understand that a result of my conviction, I may have to register as a "sex offender" in the state in which I reside. I have informed my defense counsel that, upon release from military confinement, I intend to reside in the State of California. My civilian defense counsel has informed me of the corresponding state sexual offender laws which will apply to me in the above mentioned state.

18. Specially Negotiated Provisions:

As consideration for this Agreement, and after having fully discussed the issue with my defense counsel:

(a) I agree to request trial and sentencing by Military Judge alone, and waive my right to a trial by members.

(b) I agree to enter into a stipulation of fact, which describes the facts and circumstances surrounding the offenses to which I am pleading guilty. I understand that the failure of the parties to reach a mutually agreed upon stipulation of fact may result in either side withdrawing from this Agreement. I further agree not to object to the mutually agreed upon stipulation's admission during the providence inquiry and during the pre-sentencing proceeding.

(c) The Government agrees to fund up to \$3,000.00 in expert witness fees of Dr. Dennis Wood of San Diego, CA, including any expenses related to travel. I agree not to request, at government expense, the presence of any other witnesses located outside a 100-mile radius of the site of my trial as directed by the Convening Authority. This provision does not interfere with my ability to present an effective case in extenuation and mitigation. I intend to use alternative means to present this material. The Government specifically agrees not to object on grounds of hearsay, authentication, or foundation to the admission into evidence of written statements in extenuation and mitigation from witnesses located outside the 100-mile radius of the site of my trial.

(d) I agree, and am fully prepared, to go to trial and offer to go to trial no later than 30 November 2011. I understand that I will not be deemed to have breached this

Agreement if the judiciary cannot schedule my trial by this specific date. The Convening Authority agrees to direct my trial take place in San Diego, California.

(e) I and the Government agree not to object to service record documents being offered into evidence in sentencing on the basis of hearsay or authenticity.

(f) I reserve the right to raise motions regarding my right to due process, the right to challenge the jurisdiction of the court-martial, the right to a speedy trial, the right to raise the issue of unlawful command influence, or any other motion that cannot be waived under R.C.M. 705. I agree to waive my right to raise any other motion not reserved by this paragraph, including, but not limited to, any motion to suppress evidence seized by agents of the Naval Criminal Investigative Service and any motion to suppress statements made by me to agents of the Naval Criminal Investigative Service.

(g) I understand that I am pleading guilty to a Qualifying Military Offense (QMO) under 10 U.S.C. 1565 which requires participation in the Deoxyribonucleic Acid (DNA) Sample Collection Program. As consideration for this Pretrial Agreement, I hereby consent and agree to voluntarily submit to the collection of DNA samples within five (5) days of sentencing. I acknowledge that I have had an adequate opportunity to consult and have so consulted with my defense counsel regarding the meaning and ramifications of this term of the Pretrial Agreement.

(h) The Government and I agree not to object to the Court receiving either telephonic or video teleconferencing (VTC) testimony in lieu of live testimony offered during the sentencing proceedings. This provision does not preclude objections to the content of the testimony offered.

(i) I understand and agree that, in return for my pleas of guilty, and following the Military Judge's acceptance of my pleas as set forth below, the Convening Authority will withdraw the Charges and Specifications to which I have pled not guilty. After announcement of the sentence by the Military Judge, the withdrawn charge and specification will be dismissed by the Convening Authority without prejudice. The Convening Authority agrees not to re-prefer and re-refer the withdrawn Charges and Specifications unless, for any reason, this Agreement is set aside or deemed unenforceable by any court.

(j) I agree not to object to the admission into evidence of written or videotaped statements by Ensign K.L.M, U.S. Navy, or Engineman Third Class K.M.D., U.S. Navy, the victims of my misconduct, during presentencing proceedings on any grounds, including, but not limited to, hearsay, authenticity, best

evidence rule, foundation, or the Confrontation Clause of the 6th Amendment to the United States Constitution.

(k) The Convening Authority agrees to recommend to Commander, Navy Personnel Command (PERS-00D, Corrections and Programs) that the designated place of confinement be Naval Consolidated Brig Miramar. I understand that this is a non-binding recommendation and that I may be confined at a facility other than Naval Consolidated Brig Miramar.

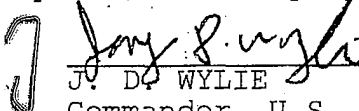
PLEAS OF THE ACCUSED


<u>CHARGE</u>	<u>PLEAS</u>
CHARGE I: Violation of Article 92, UCMJ	NOT GUILTY
Specification 1:	NOT GUILTY
Specification 2:	NOT GUILTY
Specification 3:	NOT GUILTY
Specification 4:	NOT GUILTY
Charge II: Violation of Article 93, UCMJ	NOT GUILTY
Specification 1:	NOT GUILTY
Specification 2:	NOT GUILTY
Charge III: Violation of Article 120, UCMJ	GUILTY
Specification 1: (Rape)	GUILTY
Specification 2: (Aggravated Sexual Assault by Bodily Harm)	NOT GUILTY
Specification 3: (Aggravated Sexual Assault by Using Threats)	GUILTY
Specification 4: (Abusive Sexual Contact by Using Threats)	GUILTY
Specification 5: (Abusive Sexual Contact by Using Threats)	GUILTY

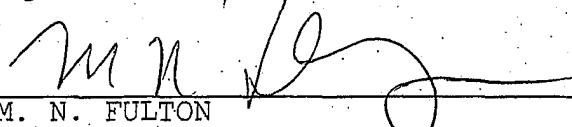
CHARGE IV: Violation of Article 125, UCMJ NOT GUILTY
Specification: NOT GUILTY

CHARGE V: Violation of Article 133, UCMJ GUILTY
Specification 1: GUILTY
Specification 2: GUILTY
Specification 3: GUILTY

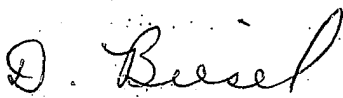
By my signature below I acknowledge that I have read this Agreement completely, discussed it with my counsel, understand it in all respects, and am prepared to abide by its terms.

06 OCT 11 
Date J. D. WYLIE
Commander, U.S. Navy
Accused

06 OCT 11 
Date J. J. SULLIVAN
Civilian Defense Counsel

11 OCT 11 
Date M. N. FULTON
Commander, JAG Corps, U.S. Navy
Defense Counsel

The foregoing Pretrial Agreement is approved, including the sentence limitation portion of this Agreement.

11 OCT 2011 
Date D. T. BIESEL
Rear Admiral, U.S. Navy
Commander, Navy Region Northwest
Convening Authority

DEPARTMENT OF THE NAVY
GENERAL COURT-MARTIAL
NAVY AND MARINE CORPS TRIAL JUDICIARY
WESTERN JUDICIAL CIRCUIT

U N I T E D S T A T E S

v.

JAY D. WYLLIE
CDR / O-5 / U.S. Navy

MEMORANDUM
OF
PRETRIAL AGREEMENT:

(Part II)
SENTENCE LIMITATIONS

1. **Dismissal:** May be approved as adjudged.

2. **Confinement:** May be approved as adjudged. However, all confinement in excess of **42 months** will be suspended for the period of confinement adjudged plus 12 months thereafter, at which time, unless sooner vacated, the suspended portion will be remitted without further action. The period of suspension will begin on the date when the Convening Authority acts on the sentence. This Agreement constitutes my request for, and the Convening Authority's approval of, deferment of all confinement suspended pursuant to the terms of this Agreement. The period of deferment will run from the date of adjournment of the court-martial until the date the Convening Authority acts on the sentence.

3. **Forfeitures or Fines:**
 - a. **Adjudged Forfeitures:** May be approved as adjudged; however, any adjudged forfeitures will be suspended for 12 months from the date of the Convening Authority's action, at which time, unless sooner vacated, all suspended adjudged forfeitures will be remitted without further action. This Agreement constitutes the Accused's request for, and the Convening Authority's approval of, deferment of all adjudged forfeitures which are to be suspended pursuant to the terms of this Agreement and would otherwise become effective under Article 57(a)(1), UCMJ. The period of deferment will run from the date adjudged forfeitures would otherwise become effective until the date of the Convening Authority's action.

 - b. **Automatic Forfeitures:** Automatic forfeitures will be deferred provided that the Accused establishes and maintains a dependent's allotment in the total amount of the deferred forfeiture amount during the entire period of deferment and for six months thereafter. This Agreement constitutes the Accused's request for, and the Convening Authority's approval of, deferment of automatic forfeitures pursuant to Article 58b(a)(1), UCMJ. The period of deferment will run from the date automatic forfeitures would otherwise become effective under Article 58b(a)(1), UCMJ,

until the date the Convening Authority acts on the sentence. Further, this Agreement constitutes the Accused's request for, and the Convening Authority's approval of, waiver of automatic forfeitures. The period of waiver will run from the date of the Convening Authority's action and shall not exceed six (6) months.

The deferred and waived forfeitures shall be paid to (b) (6)

(b) (6) and currently resides at (b) (6)
(b) (6)

It is a material condition of this Agreement that the deferment and waiver will continue only so long as a bank account is established and maintained for the sole use of the Accused's (b) (6) (b) (6) to which said dependent's allotment will be directed, and only so long as the Accused takes no action to access any funds in that account. Proof of this dependent's allotment and of this bank account must be furnished to the Convening Authority before deferment will occur. As a material condition of the deferment and waiver of automatic forfeitures, the Accused agrees to notify the Convening Authority in writing if the Department of Defense fails to pay the deferred and waived automatic forfeitures to the Accused's dependent, (b) (6) per this Agreement. The notification must be post-marked or received, if sent via electronic means, within 5 days of the non-payment. Should non-payment occur, the Accused hereby agrees to notify, in writing, the Convening Authority at the following address: Commander, Navy Region Northwest, Attention: Staff Judge Advocate, Naval Base Kitsap - Bangor, 1100 Hunley Road, Silverdale, WA 98314. If the Accused fails to so notify the Convening Authority of such non-payment in the manner outlined in this paragraph, the Accused agrees that the obligation of the Convening Authority to defer and waive automatic forfeitures hereunder is null and void. Finally, if non-payment occurs and the Accused makes proper notification under this paragraph, the Accused agrees that the sole remedy for non-payment is the payment of the outstanding amount.

c. **Fines:** May be approved as adjudged; however, the adjudged fine will be suspended for 12 months from the date of the Convening Authority's action, at which time, unless sooner vacated, the suspended portion of the fine will be remitted without further action.

4. **Other lawful punishments:** May be approved as adjudged.

I fully understand, and have discussed with my counsel, how this Agreement will affect any sentence that I may be awarded by the court-martial.

06 OCT 11

Date

Jay S. Wylie
J. D. WYLIE
Commander, U.S. Navy
Accused

06 OCT 11

Date

J. J. Sullivan
J. J. SULLIVAN
Civilian Defense Counsel

11 OCT 11

Date

M. N. Fulton
M. N. FULTON
Commander, JAG Corps, U.S. Navy
Defense Counsel

The foregoing Pretrial Agreement is approved.

11 OCT 2011

Date

D. T. Biesel
D. T. BIESEL
Rear Admiral, U.S. Navy
Commander, Navy Region Northwest
Convening Authority

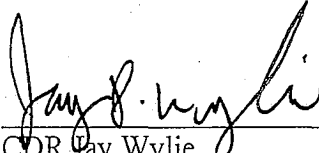
PRIVACY ACT STATEMENT

Authority. This information is requested by authority of 10 U.S.C. section 876a(1982), Executive Order 12473, C.F.R. 201 (1984 Comp)

Principal Purpose(s). This information is used to keep the servicemember informed of the status of his case through appellate review, to ensure that he is fully advised of his appellate rights, and to communicate actions that may be required of the servicemember based upon appellate review.


Routine Uses. The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation in the Federal Register apply.

Mandatory or Voluntary Disclosure and Effect on Individual Not Providing Information. Failure to provide a current address and telephone number may adversely affect the servicemember's ability to properly exercise his rights on appellate review and may adversely affect any benefits or privileges due upon completion of such review. For servicemembers requesting voluntary appellate leave, failure to provide a current address and telephone number may result in denial of that request. For servicemembers ordered to involuntary appellate leave or those already on appellate leave, either voluntarily or involuntarily, failure to provide current information may result in disciplinary action.



CDR Jay Wylie

Date: 28 OCT 11



DETAILED DEFENSE COUNSEL
CDR Mark Fulton, JAGC, USN

Date: 28 OCT 11

SPECIAL POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS:

That I, CDR Jay Wylie, USN having been convicted by a General Court-Martial on 28 October 2011, do hereby make, constitute and appoint my appellate defense counsel of record under the provisions of Article 70, Uniform Code of Military Justice, U.S.C. section 870, and R.C.M. 1202, MCM, 2002, for the defense of my case, my true and lawful attorney or attorneys for me in my name, place, and stead, and for my use and benefit, and as my act and deed, to accept service of the U.S. Navy-Marine Court of Criminal Appeals (NMCCA) decision in my case and thereby start the running of the 60-day appeal period within which I may petition the U.S. Court of Appeals for the Armed Forces (CAAF) for a grant of review and, in the event any part of my conviction is affirmed by the NMCCA, to execute, file, and prosecute a petition for grant of review in the CAAF under the provision of Article 67, UCMJ, 10 U.S.C. section 867, or when in his judgment he deems further review of my conviction is unwarranted due to lack of meritorious grounds to be urged upon appeal, to waive my right to petition the CAAF. I fully understand my statutory right under Article 67(c), UCMJ, 10 U.S.C. section 867(c), to have actual personal service of the decision of the NMCCA on myself and I hereby voluntarily, knowingly, and consciously waive that right.

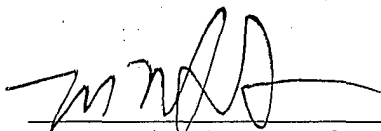
GIVING AND GRANTING to my attorney full power and authority to do and perform every act and thing requisite and necessary to be done in the premises, as fully to all intents and purposes as I might or could do if personally present at the doing thereof, with full power in me of substitution and revocation, hereby ratifying and confirming all that my said attorney or substitute may or shall lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of October 2011.



CDR Jay Wylie, USN

Signed in the presence of:



CDR Mark Fulton, JAGC, USN
Detailed Defense Counsel

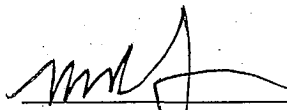
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Enclosure (3)

I, CDR Mark Fulton, the undersigned officer, do hereby certify that on this 28th day of October 2011, before me, personally appeared CDR Jay Wylie whose home address is:

(b) (6)

and who is known to me to be a member of the United States Armed Forces on active duty and to be the identical person who is described in, whose name is subscribed to, and who signed and executed the contents of the foregoing document; he personally acknowledged to me that he signed and sealed the same, on the date it bears, as his true, free, and voluntary act and deed, for uses, purposes, and considerations therein set forth. And I do further certify that I am on the date of this certificate a commissioned officer of the grade, branch of service, and organization stated below in the active service of the United States Armed Forces, that by statute no seal is required on this certificate, and the same is executed in my capacity as a judge advocate under authority granted to me by Article 136, UCMJ, 10 U.S.C. section 936.



DEFENSE COUNSEL
CDR Mark Fulton, JAGC, USN

8/10

Enclosure (3)

From: CDR Jay Wylie, USN

To: The Judge Advocate General of the Navy

Subj: REQUEST FOR VOLUNTARY APPELLATE LEAVE

Ref: (a) MCO 1050.16A, Appellate Leave Awaiting Punitive Separation

Encl: (1) Appellate Rights Form
(2) Privacy Act Statement
(3) Special Power of Attorney

1. In accordance with the reference, I request to be placed on voluntary appellate leave.
2. The enclosures are attached as required information.
3. I hereby request that I be granted leave, including excess leave, without pay, pending completion of the review of my court-martial. I understand that:
 - a. While on such leave, I am subject to the orders of competent military authority.
 - b. While on such leave, I must keep my commanding officer advised of my correct address.
 - c. Such leave may be terminated at any time by written notice delivered to the address which I have provided. Upon notification of such termination, other than as a result of my executed discharge, I am obligated to expeditiously return to my duty station or such other location as directed by competent authority.
 - d. I am not entitled to mileage allowance or transportation in kind while on such leave. Accordingly, I must bear my own transportation expenses from my duty station to my leave address and, if my leave is terminated for any reason other than as a result of my executed punitive discharge, I must bear my own transportation expenses to return to my duty station. In either event, I must bear such expenses without recourse from the Government.
 - e. Any accrued leave remaining to my credit will be charged to my account. I will receive pay and allowance for such accrued leave, if any, which I utilize. Thereafter, any leave requested hereby which is utilized by me will be excess leave, for which I will not be entitled to receive pay or allowances and during which period all my existing allotment will be stopped in the same manner that such stoppages are made upon discharge.
 - f. If the punitive discharge is disapproved for any reason, I may be discharged under conditions other than honorable or otherwise appropriate based on my previous service record.
 - g. My leave may be terminated if my punitive discharge is disapproved or approved but suspended for a probationary period.

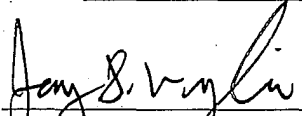
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Subj: REQUEST FOR VOLUNTARY APPELLATE LEAVE

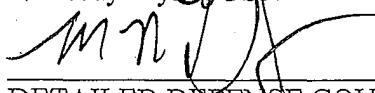
h. Solely at the option of the Commanding General, termination of my leave may be effected where the date of my end of active service or other obligated active duty has not passed and my punitive discharge is disapproved by the discharge authority. In such an event, I hereby consent to be discharged for the convenience of the government, with the character of discharge warranted by my service record, if a specific basis under the applicable series of Marine Corps Order P1900.16, Marine Corps Separation Manual, paragraph 6012 applies to my case and cognizant military authority determines this course of action to be more appropriate than terminating my leave status.

4. My leave address and telephone number are as follows:

(b) (6)



CDR Jay Wylie, USN



DETAILED DEFENSE COUNSEL
CDR Mark Fulton, JAGC, USN

10/10