

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CENTER FOR CONSTITUTIONAL)	
RIGHTS, <u>et al.</u> ,)	
Plaintiffs,)	
)	Civil Action No. 1:13-cv-1504-ELH
v.)	
)	
CHIEF JUDGE COL. DENISE LIND,)	
<u>et al.</u> ,)	
Defendants.)	

NOTICE

Defendants hereby submit this Notice, based upon additional information recently provided, to clarify the status of transcriptions of pre-trial proceedings in the Manning court-martial. As explained in the accompanying Declaration, audio-recordings are typically not transcribed until the close of court-martial proceedings. *See* Second Decl. of Lt. Col. Nelson Van Eck ¶ 4. However, in light of the unique length of the Manning court-martial, the Army has begun preparing rough drafts of transcripts of some pre-trial proceedings. *See id.* ¶ 5. Such rough drafts of transcripts have not been reviewed, corrected, or certified, and are not part of the record of proceedings. *See id.* ¶ 6.

Dated: June 14, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2013, I caused a true and correct copy of the foregoing Notice and accompanying Declaration to be served on plaintiffs' counsel electronically by means of the Court's ECF system.

/s/ John R. Tyler
JOHN R. TYLER

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

CENTER FOR CONSTITUTIONAL RIGHTS, et al.,)	
)	
Plaintiffs,)	Case No. 1:13-cv-01504
)	
v.)	
)	
COL DENISE LIND, et al.,)	
)	
Defendants.)	
)	

SECOND DECLARATION OF LIEUTENANT COLONEL NELSON VAN ECK

I, Lieutenant Colonel Nelson J. Van Eck, hereby declare as follows:

1. I am a Lieutenant Colonel in the United States Army. I currently serve as the Chief, Criminal Law Division, Office of The Judge Advocate General ("OTJAG"), 2200 Army Pentagon, Washington, D.C. 20310. I have served in this position since July, 2012, and have been a commissioned officer in the U.S. Army Judge Advocate General's Corps for the past sixteen (16) years.

2. The statements contained in this declaration are based upon my personal knowledge, upon information provided to me in my official capacity, and upon determinations and conclusions made in accordance therewith.

3. I submit this declaration to clarify statements regarding the preparation of transcripts that were made in the declaration I submitted to this Court on June 6, 2013.

4. As I indicated in paragraph nine of my previous declaration, verbatim transcripts are generally not prepared until after a court-martial verdict has been rendered because verbatim transcripts are only necessary after entry of certain verdicts. *See* Article 54, Uniform Code of

Military Justice (UCMJ) (detailing the sentences which trigger the requirement for a verbatim transcript); Rule of Courts-Martial (RCM) 1103(b)(2)(B) in the Manual for Courts-Martial (MCM) (explaining when a verbatim transcript is required for the record of trial).

5. Even though a verbatim transcript may not be required in the *Manning* court-martial, the Office of the Staff Judge Advocate for the Military District of Washington (“MDW”) arranged for additional court reporters and began drafting the transcripts due to the backlog of the pre-trial audio recordings and the anticipated length of trial proceedings. There are over 160 hours of pre-trial audio recordings, and many more hours of audio recording are expected during the course of the court-martial¹, which is expected to last twelve weeks. Accordingly, court reporters have begun to assemble draft transcripts of pre-trial proceedings previously conducted.²

6. These drafts of transcripts have not been checked for errata by the parties, and have not been authenticated by the military judge. These drafts of transcripts are not part of the “record of trial” pursuant to Army Regulation (AR) 27-10, Military Justice, paragraph 5-41, and RCM 1103 in the MCM. Drafts of the verbatim transcripts do not become part of the record of trial until reviewed by the accused’s counsel, trial counsel, and authenticated by the military judge. *See* RCM 1104 (explaining a record of trial is authenticated by the military judge who thereby declares that the record accurately reports the proceedings.) Moreover, correcting and authenticating drafts of transcripts of sessions held in open court during the court-martial would impose significant burdens on trial counsel, defense counsel, and the military judge, distract them from the important work of conducting the court-martial, and potentially impact the accused’s right to a speedy trial.

¹ More than thirty hours of trial proceedings have already been recorded as of 12 June 2013.

² In accordance with court-reporting standards set forth in Army Regulation (“AR”) 27-10, MDW’s trained and experienced court reporters using the military’s equipment will be expected to produce an average of 8-10 verbatim pages per hour. As a rule of thumb, each hour of audio recording requires one duty day to type.

7. If Private First Class Manning is convicted and receives a sentence which requires a verbatim transcript, the Army's efforts to begin drafting the pre-trial transcripts will reduce the time it takes, post-trial, for the authentication process, should it be required.

I certify under penalty of perjury that the foregoing is true and correct. Executed this 14th day of June 2013.


NELSON J. VAN ECK