

IN MEMORIAM



Corporal Sascha Struble

19 June 1984 – 6 April 2005

*Sergeant First Class Steven Day
Chief Paralegal, USASETAF
Vicenza, Italy*

“We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.”

—President Abraham Lincoln¹

On 6 April 2005, a CH-47 Chinook helicopter crashed with eighteen Americans on board. On that day and in that crash, the Judge Advocate General’s Corps lost an outstanding young Soldier—Corporal (CPL) Sascha Struble. Corporal Struble was following in his family’s tradition of service to this nation by serving with the U.S. Army in the Global War on Terror. On that day, CPL Struble gave his life in the defense of freedom and in the effort to bring hope and democracy to the people of Afghanistan. Corporal Struble boarded one of two Chinook helicopters at the Forward Operating Base (FOB) Orgun-E, where he was the battalion paralegal specialist for the Red Devils of the 1st Battalion (Airborne), 508th Infantry. After leaving Orgun-E, a severe sandstorm limited aircraft visibility. In order to land, the pilots attempted to maneuver to a nearby base, FOB Ghazni. The bad weather “may have caused a fatal pilot error or technical problem,”² which resulted in a crash. All eighteen Americans on board perished.³

Corporal Sascha Struble was only twenty years old when he gave his life for his country. Yet, during the short time I knew Corporal Struble, he left an indelible mark on me. Corporal Struble was that rare individual who could bring you to smile at any moment in the day. Corporal Struble was also a professional, a paratrooper. His devotion to the Army, his job, and his country are without question.

*—Staff Sergeant Ariel Cohen
Noncommissioned Officer in Charge, Criminal Law
U.S. Army Southern European Task Force (USASETAF)*

¹ President Abraham Lincoln, The Gettysburg Address (Nov. 19, 1865), available at <http://www.yale.edu/awweb/avalon/gettyb.htm>.

² Michael Wanbaugh, *Soldier with Ties to Area Killed in Afghanistan*, SOUTH BEND TRIB., Apr. 17, 2005, at C2.

³ *Id.*

Corporal Struble was born on 19 June 1984, in Bad Bruckeau, Germany. Patriotism runs in his family. Corporal Struble was the son of a career military Soldier. His father, Michael Struble, retired from the Army as a master sergeant. One of CPL Struble's brothers, Nick Doms, is currently in the U.S. Army, and another of his brothers, Michael Struble, recently enlisted in the U.S. Air Force. Corporal Struble is also survived by his mother, Heidi Deshazo; step-mother Teresa A. Struble; step-father, Jeff Deshazo; brother, Tony Doms; and sisters, Courtney Struble and Jessica Doms. Corporal Struble graduated in 2002 from Indian River High School in Philadelphia, New York, where he was a star athlete and an avid photography student. He considered playing minor league baseball, but instead opted to follow in his father's footsteps. "Sascha Struble took his dad with him when he enlisted in the Army in 2002, during his senior year in high school."⁴

His first assignment was as a paralegal specialist for the 2/72d Armor Battalion, Camp Casey, South Korea, located just south of the heavily armed demilitarized zone. As a young Soldier, CPL Struble grabbed every opportunity that presented itself and was determined to leave Korea with Air Assault wings. Twice in successive months he completed all of the eligibility requirements, including the twelve-mile road march, for Air Assault School. He later graduated and earned his wings. Corporal Struble volunteered to go to the field whenever possible and thrived in the field environment, seeking out training on battle tracking in the unit's tactical operations center and joining the infantrymen on opposing force (OPFOR) missions after hours. While in Korea, CPL Struble volunteered for and completed the "Manchu" march, an overnight twenty-five-mile tactical foot march with full combat gear. Corporal Struble talked about his year in Korea as one of the best in his life and always reminisced about his Army experiences there with a huge smile on his face.

He had just gotten off shift about an hour before and should have been getting ready for sleep. I asked him what he was doing, and he said that the infantry guys said he could go on an OPFOR mission with them. He was sweating, standing in mud almost to the top of his boots, had a full ruck, his weapon, and was grinning ear to ear. That is the type of Soldier he was.

*-Staff Sergeant Allen J. Foster
Noncommissioned Officer, 2d Infantry Division*

After finishing his tour in Korea, CPL Struble again requested an overseas assignment—1st Battalion (Airborne), 508th Infantry, Vicenza, Italy,—in hopes of earning his Airborne wings and of getting deployed. He accomplished both of these tasks in addition to handling all the military justice actions out of his battalion. Corporal Struble was extremely motivated and always eager to share the workload of the other paralegals. He never called it a day before his noncommissioned officers and always made sure the judge advocates were "good-to-go" before leaving.

Corporal Struble deployed to Afghanistan in February 2005 in support of Operation Enduring Freedom VI. Based on his motivation and genuine concern for taking care of the Soldiers in his battalion, both his battalion commander and his command sergeant major fought to have him assigned with their unit at Orgun-E.

Due to his outstanding professionalism, hard work, and attention to detail, we fought hard to have CPL Struble forward deployed to us in Orgun. He was a true combat multiplier who took great care of our Soldiers and motivated all those around him to be all they could be.

*-Lieutenant Colonel Timothy McGuire
Commander, 1/508th Infantry Battalion*

Corporal Struble could not have been more excited to receive the news. He was finally getting to work with his battalion in the field, as he had always wanted, and he was going to be stationed with them at a remote forward operating base in Orgun-E, where he hoped he would again have the opportunity to improve his soldiering skills by working alongside the infantrymen in his unit. Corporal Struble's battalion was assigned to a brigade of the 82d Airborne Division, and at the time of his death, CPL Struble was the only solo-operating paralegal in the Combined-Joint Task Force 76 area of operations. While deployed, CPL Struble continued to perform in an excellent manner.

His motivation and great attitude were models for other Soldiers. Corporal Struble had remarkable character—he was honest, trustworthy, and genuinely cared about people. Always giving one hundred and ten percent, CPL Struble was extremely proactive and was constantly helping his unit and fellow Soldiers with their legal issues at Orgun-E.

I was comforted to know that he was located at the battalion task force forward operating base, as I knew that the battalion was in fully capable hands. Corporal Struble's death made us all evaluate our environment and ourselves. . . . Corporal Struble was the epitome of what a young Soldier should be. He

⁴ Elizabeth Holes, LaPorte County Native Killed in Afghanistan, NWITimes.com (northwest Ind.), Apr. 16, 2006, http://nwitimes.com/articles/2005/04/16/news/top_news/0d17ad0f3bd1786256fe50015cf7e.txt.

was enthusiastic, smart, dedicated, and caring. He wanted to make the world a better place, and he wanted to help his buddies. We all evaluated ourselves against Corporal Struble, and we all realized that we came up short in one respect or another.

*-Colonel Kelly Wheaton
Staff Judge Advocate, USASETAF*

To know CPL Struble was to know what is good about Soldiers. During his short career in the U.S. Army, he earned the Bronze Star, Purple Heart, Army Achievement Medal, National Defense Service Medal, Afghanistan Campaign Medal, Global War on Terrorism Medal, Korean Service Medal, Overseas Service Ribbon, and the Army Service Ribbon. He was also authorized to wear the Air Assault and Parachutist Badges.

It was CPL Struble's confidence and inner strength, however, that set him apart. He was truly the All-American patriot; great at sports, quick with a laugh, and always the life of any social event. Corporal Struble had that very rare quality to somehow be both happy-go-lucky and a serious, professional paratrooper.

One look, and you knew he was bound for greatness. He was the person you always wanted on your team no matter what you were doing. His confidence was infectious. He had the uncanny ability to ease tense situations while maintaining focus on the task at hand. Nothing was too hard, no distance too great; he made everything look easy. His presence really made you better than you are.

Whether on the PT field, basketball court, or office environment, CPL Struble always provided motivation for me to give just a little more. A true American and great warrior, he passed doing what he loved most, and I will be forever a better person as a result of my association with CPL Sascha Struble.

*-Chief Warrant Officer 3 Jeffery Martin
Legal Administrator, USASETAF*

That day in Afghanistan, I lost a fellow warrior, I lost a paralegal, I lost a friend, and I lost a little brother. Sascha's death was a big blow to the Corps and a big blow to me personally. We lost a comrade who was destined for so much. He truly could have walked with giants.

*-Sergeant First Class Steven Day
USASETAF Chief Paralegal*

Overseas locations and small offices bring everyone a little closer together. Corporal Struble made an indelible impression on everyone in the Southern European Task Force (Airborne) and the 173d Airborne Brigade.

It is unanimous; he was an incredible Soldier, friend, and man, and each of us are blessed by having him in our lives, if only for a brief time. Farewell Sascha, you will not be forgotten.

Good friends are hard to find, harder to leave and impossible to forget. Sascha was a great man and even better friend to us all. My wife and I will miss you. Life will not be the same where ever we go; we will surely miss you. Until we meet again, the foot prints you left on my heart will be felt for the rest of my days.

*-Sergeant Jeremy Campbell
1/508th Infantry Battalion Paralegal NCO*

Foreword

*Lieutenant Colonel Patricia A. Ham
Professor and Chair, Criminal Law Department
The Judge Advocate General's Legal Center & School
Charlottesville, Virginia*

Welcome to the eleventh annual *Military Justice Symposium*. In two volumes of *The Army Lawyer*, the faculty of the U.S. Army Judge Advocate General's School's Criminal Law Department and two military judges endeavor to explain and explore the most significant military criminal law and procedure decisions of the 2005 term of court. Our goal is not to discuss every case from the last term that the service courts of criminal appeals, the Court of Appeals for the Armed Forces, and the Supreme Court of the United States issued, but instead to identify the most significant cases from those courts, explain their importance to military justice practice, and identify applicable trends.

This first volume of the *Military Justice Symposium* discusses cases involving the Fourth and Fifth Amendments, Instructions, Pretrial Procedures, and Evidence. The second volume will address cases involving the Sixth Amendment, as well as Crimes and Defenses, Sentencing and Post-Trial, and Unlawful Command Influence. In addition, in the second volume Major (MAJ) Jon Jackson will discuss new regulatory requirements for Army practitioners in the area of improper senior-subordinate relationships.

As a preview to the outstanding articles found in this year's *Symposium*, I will briefly summarize the highlights of each article. Lieutenant Colonel (LtCol) Mark Jamison, the department's Marine representative, discusses cases involving the Fourth Amendment in his first article as a Professor in the Criminal Law Department. According to LtCol Jamison, to outward appearances all was seemingly quiet on the Fourth Amendment front for the Court of Appeals for the Armed Forces (CAAF) 2005 term. The court decided only one Fourth Amendment case. Though *United States v. Bethea*¹ broke new ground in refining further the quantum of evidence needed to establish probable cause for a search authorization, the CAAF's 2005 term represents a Fourth Amendment incubation period for two potentially groundbreaking cases in 2006 as the CAAF continues to tackle search and seizure issues surrounding computers. The most important case pending decision in the 2006 term may be *United States v. Long*.² In *Long*, the Navy Judge Advocate General certified to the CAAF the question of whether a servicemember has a reasonable expectation of privacy in government e-mail. The CAAF will also consider in *United States v. Conklin*³ whether a servicemember's consent is truly voluntary if he is not informed about an earlier constitutional violation prior to giving his consent to search his computer.

The U.S. Supreme Court did not significantly expand Fourth Amendment jurisprudence during its 2005 Term. The Court decided two cases early in the 2004 Term, and LtCol Ernie Harper addressed those cases in last year's *Symposium*.⁴ In addition to those cases, the Court decided in *Muehler v. Mena*⁵ whether law enforcement officials armed with a search warrant may detain the occupant of a residence by using handcuffs during the search's execution. The Fourth Amendment cases on the horizon for the Court's 2006 Term promise to break new ground and reconcile significant splits among the various judicial circuits. First, the Supreme Court will decide in *Georgia v. Randolph*⁶ whether an occupant may give lawful consent to search a home if another occupant who is also present objects to the search. Second, the Court will consider in *Michigan v. Hudson*⁷ whether the inevitable discovery doctrine creates a per se exception to the exclusionary rule in the event of a "knock and announce" warrant violation.

Lieutenant Colonel (LTC) Chris Fredrikson writes about the most significant cases involving the Fifth Amendment. Noting that last year was a relatively uneventful year in the area of self-incrimination law, LTC Fredrikson's article reviews two cases in which the military courts applied the basic principles of self-incrimination law: first, in *United States v.*

¹ 61 M.J. 184 (2005).

² 61 M.J. 539 (N-M. Ct. Crim. App. 2005).

³ ACM 35217, 2004 CCA LEXIS 290 (A.F. Ct. Crim. App. Dec. 30, 2004) (unpublished), *rev. granted*, 2005 CAAF LEXIS 758 (July 13, 2005).

⁴ *Devenpeck v. Alford*, 543 U.S. 146 (2004) (articulating an objective probable cause test for a warrantless arrest); *Illinois v. Caballes*, 543 U.S. 405 (2005) (holding that a dog sniff during an otherwise lawful traffic stop does not implicate the Fourth Amendment).

⁵ 125 S. Ct. 1465 (2005).

⁶ 125 S. Ct. 1840 (2005).

⁷ 125 S. Ct. 2964 (2005).