



DEPARTMENT OF THE ARMY
TRIAL DEFENSE SERVICE, REGION SOUTHEAST
976 WILLIAM H WILSON AVE, BUILDING 621
FORT STEWART, GEORGIA 31314

AFZP-TDS-JA

8 April 2013

MEMORANDUM THRU

Commander, Headquarters and Headquarters Company, 3-69th Armor Regiment, 1st Heavy
Brigade Combat Team, 3d Infantry Division, Fort Stewart, Georgia 31314
Commander, 1st Heavy Brigade Combat Team, 3d Infantry Division, Fort Stewart, Georgia
31314

FOR Commander, 3d Infantry Division, Fort Stewart, Georgia 31314

SUBJECT: Request for Discharge in Lieu of Trial by Court-Martial – Specialist (SPC) Joe
Snuffy, Headquarters and Headquarters Company, 3-69th Armor Regiment, 1st Heavy Brigade
Combat Team, 3d Infantry Division, Fort Stewart, Georgia 31314

1. I, SPC Joe Snuffy, hereby voluntarily request a Discharge In Lieu of Trial by Courts-Martial under Army Regulation (AR) 635-200, Chapter 10. I understand that I may request a Discharge In Lieu of Trial by Courts-Martial because the attached charge and specifications which have been preferred against me under the Uniform Code of Military Justice (UCMJ) authorize the imposition of a punitive discharge.
2. I request discharge in lieu of trial by court martial because I believe that it is in my best interest and in the best interest of my family and the United States Army.
3. I am making this request of my own free will and have not been subjected to any coercion whatsoever by any person. I have been advised of the implications that are attached to my request. By submitting this request for discharge, I acknowledge that I understand the elements of the offenses charged and I am guilty of at least one of the charges or of a lesser included offense, which also authorizes the imposition of a punitive discharge. I do not, however, acknowledge that I am guilty of violating (Article __, UCMJ, _____) (for a period of of 180 or more continuous days).¹ Moreover, I hereby state that, under no circumstances, do I desire further rehabilitation for I have no desire to perform further military service.

¹ Even if a servicemember is successful in avoiding an adverse COS determination on the basis of discharge in lieu of a general court-martial, admission to charged offenses in the discharge request could form the basis of another statutory or regulatory bar for OTH recipients. As a special note to counsel, in some cases, it may be wise to disclaim guilt for any offense known to be morally turpitudinous, willful and persistent, or which would trigger a statutory bar. Thus, depending on the facts and circumstances of the case, defense counsel should consider advising a client to either disclaim guilt or not admit to guilt for theft and fraud offenses. While such disclaimers may increase the chances of a positive outcome on a future COS determination, there is no guarantee as to the effect of such disclaimers on an individual adjudication. Such disclaimers are not binding on VA. Furthermore, a command may be less likely to support a request for discharge if it appears as though the accused desires to avoid responsibility for the commission of serious offenses. It may also be wise, based on the facts and circumstances of each individual case, to make a non-specific admission of guilt that does not include the highlighted language. Each case is different and requires detailed analysis of numerous factors. For example, if there is only a single charge and specification, a non-specific admission would, in effect, still be an admission to the charged offense, or to a sufficiently serious lesser-included offense. At the very least, counsel should inform the client of all risks of an admission of guilt pursuant to this request, as such an admission, based on the charged offenses, could lead to automatic bars to VA benefits. Defense counsel should abide by the client's wishes after considering attendant risks.

AFZP-TDS-JA

SUBJECT: Request for Discharge in Lieu of Trial by Court-Martial – Specialist (SPC) Joe Snuffy, Headquarters and Headquarters Company, 3-69th Armor Regiment, 1st Heavy Brigade Combat Team, 3d Infantry Division, Fort Stewart, Georgia 31314

4. Prior to completing this form, I have been afforded the opportunity to consult with appointed counsel. I have consulted with CPT (TDS Counsel) who advised me of the nature of my rights under the UCMJ; the elements of the offenses with which I am charged; any relevant lesser included offense thereto; the facts which must be established by competent evidence beyond a reasonable doubt to sustain a finding of guilty; the possible defenses which appear to be available at this time; and the maximum permissible punishment if found guilty. He has also explained, per AR 635-200, paragraph 1-13 and AR 600-8-19, Chapter 17, that the separation authority will direct an immediate reduction to the lowest enlisted grade if the discharge is characterized as Under Other Than Honorable (OTH). I fully understand this advice. Although he has furnished me with legal advice, this decision is my own.

5. I understand that if my request for discharge is accepted, I may be discharged under conditions which are other than honorable (OTH) and furnished with an Under OTH Discharge Certificate. I have been advised and understand the possible effects of the Under OTH Discharge and that, as a result of the issuance of such a discharge, I will be deprived of many or all Department of Defense and service department benefits, and that I may be deprived of my rights and benefits as a veteran under both Federal and State Law. I also understand that I may expect to encounter substantial prejudice in civilian life because of an Under OTH Discharge. I further understand that there is no automatic upgrading or review by any Government agency of a less than honorable discharge and that I must apply to the Army Discharge Review Board or the Army Board for Correction of Military Records if I wish review of my discharge. I realize that an act of consideration by either board does not imply that my discharge will be upgraded.

6. I understand that a discharge that is less than fully honorable may deprive me of benefits administered by the Department of Veterans Affairs (VA) for my current period of service. Furthermore, if I do not have a service connected disability and have less than two years of continuous active military service, or if I have not served the entire period for which I was ordered or called to active service, I may be ineligible for many VA benefits, regardless of how my discharge is characterized. If my discharge is less than fully honorable, I will not be eligible for GI Bill benefits unless such benefits are predicated upon a prior period of honorable service. If I receive an Under OTH discharge, then VA will administratively review the circumstances of my discharge and determine whether I am eligible for receiving benefits based on the circumstances of my discharge. I acknowledge that I will be barred from receiving all VA benefits if VA determines that I was a deserter or that I was AWOL for a period in excess of 180 continuous days and I was not insane, according to VA's definition of insanity, at the time of the AWOL, and there were not "compelling circumstances" for the AWOL. Furthermore, if VA determines that my OTH discharge was given in lieu of a General Court-Martial, or as a result of mutiny or spying; moral turpitude; willful and persistent misconduct; or homosexual acts involving aggravating circumstances, then I will likely be barred from receiving nearly all VA benefits, with the exception of health care for service-connected disabilities incurred during this period of service. I have been advised that more information about VA's bars to benefits can be found at 38 C.F.R. §§ 3.12(c) and (d). I understand that, regardless of the characterization of my discharge, I may still be entitled to VA benefits based on a previous period of active duty service.

AFZP-TDS-JA

SUBJECT: Request for Discharge in Lieu of Trial by Court-Martial – Specialist (SPC) Joe Snuffy, Headquarters and Headquarters Company, 3-69th Armor Regiment, 1st Heavy Brigade Combat Team, 3d Infantry Division, Fort Stewart, Georgia 31314

7. I understand that once my request for discharge is submitted, it may be withdrawn only with consent of the commander exercising General Court-Martial Convening Authority, or without that commander's consent, in the event my trial results in an acquittal or the sentence does not include a punitive discharge even though one could have been adjudged by the court. Further, I understand that if I absent myself without leave, this request may be processed and I may be discharged even though I am absent.

8. I have been advised that I may submit any statements I desire in my own behalf. 9. I hereby acknowledge receipt of a copy of this request for discharge.

JOE SNUFFY
SPC, U.S. Army
Respondent

Having been advised by me of the basis for his contemplated trial by court-martial and the maximum permissible punishment authorized under the UCMJ, of the possible effects of an Under OTH Discharge if this request is approved, and of the procedures and rights available to him, SPC Joe Snuffy personally made the choice indicated in the foregoing request for a Discharge in Lieu of Trial by Courts- Martial.

(TDS COUNSEL)
CPT, JA
Trial Defense Counsel

THE PRIVACY ACT OF 1974 (5 U.S.C. 552A)

AUTHORITY: Title 5 U.S.C. Section 301, and Title 10 U.S.C. Section 3012.

PURPOSE: To be used by the commander exercising general court-martial jurisdiction over you to determine approval or disapproval of your request.

ROUTINE USES: Request with appropriate documentation, including the decision of the discharge authority, will be filed in the MPRJ as permanent material and disposed of in accordance with AR 640-10, and may be used by other appropriate federal agencies and state and local governmental activities where use of the information is compatible with the purpose for which the information was collected.

DISCLOSURE: Submission of a request for discharge is voluntary. Failure to provide all or a portion of the requested information may result in your request being disapproved.
