

UNITED STATES OF AMERICA)

v.)

Manning, Bradley E.
PFC, U.S. Army,
HHC, U.S. Army Garrison,
Joint Base Myer-Henderson Hall
Fort Myer, Virginia 22211)

**Prosecution Request to
Substitute Photographs
for Certain Physical Evidence
in the Record of Trial**

9 August 2013

The United States requests the Court authorize the use of photographic substitutes for Prosecution Exhibits 11, 12, 13, 14, and 92 in the record of trial under Rule for Courts-Martial (RCM) 1103(b)(2)(D)(v). The original pieces of admitted evidence will be stored at the Computer Crime Investigative Unit (CCIU) evidence storage area, located at: Computer Crime Investigative Unit, 27130 Telegraph Road, Evidence Depository Room – E0126, Quantico, VA 22134.

FACTS

The Court received all five exhibits into evidence. Each piece of evidence is digital media that contains classified information. This information is not visible in photographs of the evidence.

WITNESSES/EVIDENCE

The United States requests the Court consider the enclosures to this filing and the Prosecution Exhibits cited herein.

LEGAL AUTHORITY AND ARGUMENT

RCM 1103(b)(2)(D)(v) allows the Court to include, “copies, photographs, or descriptions of any exhibits which were received in evidence.” The information contained in each piece of digital media is classified at the “SECRET” level. Substituting these photographs will allow the Court to include this evidence in the record of trial in an accessible form that can be readily identified by the parties during authentication of the record of trial. This will also eliminate the need to seal these classified pieces of evidence under RCM 1103A and Military Rule of Evidence (MRE) 505(k)(1)(B) (2013), as the photographs are unclassified.

The five photographs attached to this motion accurately depict all relevant facets of each piece of corresponding physical evidence. Each piece of physical evidence is readily identifiable from the photograph. The Court’s marking, signifying the receipt of each exhibit into evidence, is clearly visible in each photograph. Each piece of digital media requires specialized software and/or hardware to view the contained information, so the substitution of photographs for the original physical evidence will not result in any disadvantage to any party during the record of trial authentication process.

APPELLATE EXHIBIT 646
PAGE REFERENCED: _____
PAGE ____ OF ____ PAGES

CONCLUSION

The United States requests the Court allow the use of photographic substitutes for Prosecution Exhibits 11, 12, 13, 14, and 92 in the record of trial under RCM 1103(b)(2)(D)(v).



ANGEL OVERGAARD
CPT, JA
Assistant Trial Counsel

5 Encls

1. Photograph of Prosecution Exhibit 11
2. Photograph of Prosecution Exhibit 12
3. Photograph of Prosecution Exhibit 13
4. Photograph of Prosecution Exhibit 14
5. Photograph of Prosecution Exhibit 92

I certify that I served or caused to be served a true copy of the above on Mr. David Coombs, Civilian Defense Counsel, via electronic mail on 9 August 2013.



ANGEL OVERGAARD
CPT, JA
Assistant Trial Counsel