IN THE UNITED STATES ARMY
FIRST JUDICIAL CIRCUIT

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| **UNITED STATES** | ) | |
| | ) | **RULING: DEFENSE MOTION TO COMPEL WITNESSES - AMBASSADOR GALBRAITH** |
| **v.** | ) | |
| | ) | |
| **MANNING, Bradley E., PFC** | ) | |
| **U.S. Army, xxx-xx-(b)** | ) | |
| **Headquarters and Headquarters Company,** | ) | |
| **U.S. Army Garrison, Joint Base Myer-** | ) | DATED: 16 January 2013 |
| **Henderson Hall, Fort Myer, VA 22211** | ) | |

On 23 November 2012, the Defense moved to compel production of Ambassador Galbraith as a sentencing witness. On 12 December 2012, the Government filed a motion opposing production of Ambassador Galbraith. On 4 January 2013, the Defense filed proffers in support of its motion, to include a 3 January 2013 declaration from Ambassador Galbraith. Having considered the filings by the parties, oral argument, and Ambassador Galbraith's declarations, the Court finds and rules as follows:

1. Ambassador Galbraith served as ambassador to Croatia from 1993-1998. He was an original classification authority (OCA). Prior to this he served as a staff member of the Senate Foreign Relations Committee from 1979 – 1993. For 10 years during this period he was responsible for DOS authorization legislation to include responsibility for oversight and legislation related to DOS handling of classified information.

2. SIPDIS was not used while Ambassador Galbraith was in DOS but he or his staff drafted some of the cables that subsequently received the SIPDIS label.

3. The Government is calling a number of witnesses from DOS for the sentencing phase of the trial. The Defense does not have easy access to witnesses currently employed at DOS.

4. The Government's response concedes that, although dated, Ambassador Galbraith's testimony could be relevant for sentencing.

5. RCM 703(c)(2)(B)(i) provides that a defense synopsis of expected testimony must list the subjects the witness is expected to address and what the witness will say about those subjects. *U.S. v. Rockwood*, 52 M.J. 98 (C.A.A.F. 1999). The Defense has met this requirement.

6. Although Ambassador Galbraith's experience at DOS is 15 years old and he does not have direct experience with SIPDIS, he does have some experience with some of the cables at issue in this case, and as a DOS OCA, and with legislation involving classification by DOS. In light of the number of DOS Government witnesses testifying during sentencing and the lack of ready access to such witnesses by the Defense, the Court orders the Government to produce Ambassador Galbraith as a Defense witness for sentencing.



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**RULING:** The Defense Motion to Compel Production of Ambassador Galbraith is **GRANTED.**

**SO ORDERED:** This 16th day of January 2013.

DENISE R. LIND
COL, JA
Chief Judge, 1st Judicial Circuit