

9 September 2016

MEMORANDUM THROUGH Office of the Judge Advocate General, Professional Responsibility Branch, 2200 Army Pentagon, Washington, D.C. 20310-2200

FOR LTG Flora Darpino, The Judge Advocate General of the United States Army

SUBJECT: Allegations of Violations of the Army Rules of Professional Conduct for Lawyers (AR 27-26) and Recommendations for Suspension from the Practice of Law before Army Courts and other Censure

1. I find myself incapable of responding without emotion to the allegations of violations of rules of professional conduct for offenses which I was convicted of in January 2015. The following is my effort to remove the torturous mixture of anger, grief, resentment, righteousness, betrayal and bitterly purchased wisdom I hold and feel at any given moment of any given day since my convictions. (I suspect I will be as weakly successful as I was in the same pursuit while preparing my Grostefon matters, attached.) Should you choose to suspend my practice of law before Army courts and forward such decision to any other agencies or organizations based on those wrongful convictions you will have compounded the tragedy and injustice which have been levied against me.

2. I am NOT GUILTY of the offenses which I was found guilty of at Court-Martial. This fundamental, unambiguous, eternal TRUTH remains unchanged. (Truth cannot be changed no matter how much any party wishes it to be otherwise.) The United States Army proceeded with a case, founded on lies, relying exclusively on testimony of the most dishonest person I have ever known. Her lies have never stopped, from her first accusations, which notably did not include sexual assault, to her Article 32 invented anal rape story, to her suggestions of physical and sexual abuse of my daughters (which the states of Texas and North Carolina investigated... and dropped). Why didn't the Army take my accuser at her word and charge me with those latter offenses, or her accusations that I physically abused my subordinates? Just as her accusations of rape and domestic violence relied exclusively on her testimony, so did those accusations. All lies. All of them!


3. My case is an example of the need that justice be done at every step and every level of the process. Sadly, numerous individuals entrusted to do justice failed, from commanders afraid to NOT forward sex assault accusations to prosecutors who doubted the case, to those who financially rewarded my accuser, not my daughters. This is not an indictment against all, however. There were some who did their professionally and morally required duties. I direct your attention to the Article 32 report in my case, attached, as an example. I challenge you to read it word for word. LTC Hallings, the Investigating Officer, spent approximately 25 of 35 pages giving example after example of my accuser's lies, her motives to fabricate, and why she was absolutely not trustworthy or honest. She not only recommended against ANY court-martial but also recommended that ALL sex assault allegations be dropped. Dropped! (You should not take this to mean that I endorse the Investigating Officer's findings and recommendations. As I testified in family law court, long before Army CID foolishly stepped into what was a contentious divorce and custody dispute, I never struck my wife. Then again LTC Hallings suggested that my accuser was a likely aggressor.) At least the Article 32 IO did her duty when she carefully reviewed all evidence available in the case and made assessments and recommendations consistent with that available evidence. Should I discuss that I was convicted of assault by tickling – if that isn't a perfect example of the outrageous and desperate efforts of the lead

prosecutor in this case to convict me, not of tickling, but of the greater charges. Refer to my appellate briefs for examples of her other unethical conduct.

4. As to my honesty and integrity in these matters I offer this simple incontrovertible fact: the prosecution never produced a witness who challenged my character for truthfulness. As part of my defense my team put up numerous witnesses who testified about the character of my word. We opened the door for the prosecution to put on evidence to the contrary. The prosecution was unable to enter that door in response. My honesty in these matters, as in all, does not warm me or give me peace at night, but it does give me hope that justice and truth may yet prevail.

5. Despite the TRUTH of my innocence to these alleged crimes I have few illusions as to what action/s you will likely take. A desire to not judge you individually gives me cause for hesitation in predicting what your decision will be, as well as the more than thirteen years that have elapsed since the interactions of an Artillery Captain and a divisional SJA. At the very least I would request that you stay any decision until the completion of my appeals, through CAAF if necessary. There are very real and numerous issues and errors in my case, not the least of which is my actual innocence. Furthermore I am not practicing law in any capacity. More than 16 months ago I officially removed myself from a practicing status with the State Bar of Texas, with no intent to change that status until my exoneration, therefore there is no risk from non-action or delayed action. May God grant you mercy if anything other than justice should guide you and your staff for any decisions made now.



veritas,

ERIK J. BURRIS
MAJOR
United States Army

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