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December 31, 2014

**VIA ELECTRONIC MAIL**

The Honorable Chuck Hagel, Secretary of Defense  
The Honorable John McHugh, Secretary of the Army  
c/o Wayne Holden Williams, Esq.  
Special Assistant United States Attorney  
555 Fourth Street, N.W.  
Washington, DC 20530  
[wayne.williams@usdoj.gov](mailto:wayne.williams@usdoj.gov)

**RE: Fort Hood Terror Attack Victims' Petition For Purple Hearts And Medals For The Defense Of Freedom.**

Dear Mr. Williams:

Our clients are victims of the Fort Hood terror attack of November 5, 2009, and plaintiffs in *Manning et al v. McHugh et al*, Docket 1:12-cv-1802 (CKK) now pending in the U.S. District Court for the District of Columbia. This letter and enclosed administrative Petition are addressed to you in your capacity as counsel to Secretaries Hagel and McHugh. Please confirm that you will accept service thereof.

Your clients were aware that Nidal Hasan was inspired or motivated by a foreign terrorist organization as early as the evening of November 5, 2009, and currently have in their possession the requisite records of each Petitioner's death or wounds. Therefore there is no reason for delay and the requested relief should be granted within sixty days. Given the Court's Order of December 23, 2014, and in view of the very tortured history of this case, we are filing an informational copy of the Petition with Judge Kollar-Kotelly. Also, please be advised that we intend to file a mandamus action should your clients fail to act in a timely fashion.

Feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Reed D. Rubinstein".

Reed D. Rubinstein

Enclosure

BEFORE THE UNITED STATES DEPARTMENT OF DEFENSE

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 In The Matter Of: )  
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 The Fort Hood Terror Attack Of )  
 November 5, 2009 )  
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Dated: December 31, 2014

**PETITION UNDER 10 U.S.C. §1029a, AS AMENDED BY NDAA SECTION 571, FOR PURPLE HEARTS AND MEDALS FOR THE DEFENSE OF FREEDOM,**

Petitioners, by the personal representatives of the deceased or in their individual capacities, as appropriate, and through their counsel NEAL M. SHER, ESQ. and DINSMORE & SHOHL LLP, hereby petition the Secretary of Defense Chuck Hagel and/or the Secretary of the Army John McHugh (collectively “Respondents”) pursuant to 10 U.S.C. §1029a, as amended by Section 571 of the National Defense Authorization Act for Fiscal Year 2015 (“NDAA”), for Purple Heart or Medal for the Defense of Freedom decorations, as appropriate.

**I. INTRODUCTION.**

1. The NDAA directs Respondents to determine whether the Fort Hood terror attack of November 5, 2009 was “inspired or motivated by a foreign terrorist organization” and, if so, to retroactively award Petitioners a Purple Heart or a Medal for the Defense of Freedom, as appropriate, plus all benefits.

2. The undisputed evidence, including statements by the terrorist Nidal Hasan, the current director of the Central Intelligence Agency and the current director of the Federal Bureau of Investigation, and reports by Congress and the Webster Commission, is that the Fort Hood attack was in fact “inspired or motivated” by foreign terrorist organizations.

3. Therefore, pursuant to the NDAA and to the applicable provisions of the Administrative Procedure Act, 5 U.S.C. §§ 555, 706, Petitioners demand that Respondents promptly award them and all other Armed Forces and civilian victims of the Fort Hood terror attack a Purple Heart or a Medal for the Defense of Freedom, as appropriate.<sup>1</sup>

## II. THE LEGAL REQUIREMENTS BINDING RESPONDENTS IN THIS CASE.

4. NDAA § 571(a)(2)(B) requires the Secretary of Defense “to determine whether the death or wounding” that occurred due to the Fort Hood terror attack of November 5, 2009, resulted from “an attack inspired or motivated by a foreign terrorist organization.” If so, then NDAA § 571(b)(1) directs the Secretary of the Army to retroactively award a Purple Heart or Medal for the Defense of Freedom, as appropriate.<sup>2</sup>

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<sup>1</sup> Petitioners call on Respondents to award appropriate decorations to *all* Fort Hood terror victims, including those who are not parties to this Petition.

<sup>2</sup> Respondents have decorated and aided Armed Services victims of other terror attacks and certainly could have done so for Petitioners without Congressional action in the NDAA. By regulation, any Armed Forces member wounded or killed as “the result of an act of any hostile foreign force” or “as a result of an international terrorist attack against the United States” is entitled to a Purple Heart. *See* Department of Defense, *Manual of Military Decorations and Awards: Vol. 3*, DoD Manual 1348.33, November 23, 2010 at 21 *available at* <http://www.dtic.mil/whs/directives/corres/pdf/134833vol3.pdf> (accessed December 29, 2014). Historically, the government’s test for determining when injuries are caused by a “hostile foreign force” is not citizenship nor geographic location but rather ideology and hostile intent against the United States. This ideology/intent test is how the government justifies drone strikes against American citizens working with or for al-Qaeda, among other things. *See generally* U.S. Department of Justice, “Memorandum for the Attorney General Re: Applicability of Federal Criminal Laws and Constitution to Contemplated Lethal Operations Against Shaykh (sic) Anwar al-Aulaqi” at 41 (as redacted) (July 16, 2010)(“where high-level government officials have determined...that the targeted person is part of a dangerous enemy force and is engaged in activities that pose a continued and imminent threat to U.S. persons and interests [redacted] the use of lethal force would not violate the Fourth Amendment”) *available at* <http://www.washingtonpost.com/r/2010-2019/WashingtonPost/2014/06/23/National-Security/Graphics/memodrones.pdf> (accessed December 30, 2014). Respondents, however, applied their regulations and precedents inconsistently, denying Petitioners, the other Fort Hood victims and the victims of the 2009, Little Rock Army Recruiting Station attack equal treatment. Therefore, Congress was forced to act.

5. The Purple Heart decoration is not discretionary.<sup>3</sup>

6. The Medal for the Defense of Freedom decoration also is not discretionary.<sup>4</sup>

### III. THE TERRORIST HASAN WAS INSPIRED OR MOTIVATED BY ONE OR MORE FOREIGN TERRORIST ORGANIZATIONS.

7. Nidal Malik Hasan (“Hasan”) carried out the Fort Hood terror attack on November 5, 2009.

8. He attacked Petitioners after extensive planning, practice and preparation, and after months of communications with al-Qaeda leader Anwar Awlaki.<sup>5</sup> Taking up a pre-planned firing position designed to maximize the carnage, he yelled “Allah Akbar” (meaning “God is great” in Arabic)<sup>6</sup> and began shooting. Hasan killed 14 Americans, wounded 32 with gunshots and injured many others, before he was shot and paralyzed.

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<sup>3</sup> See DoD Manual 1348.33 at 21, *supra* (“The [Purple Heart] differs from other personal performance awards in that an individual is eligible for the decoration upon the awarding authority determining that the specified award criteria have been met”), *available at* <http://www.dtic.mil/whs/directives/corres/pdf/134833vol3.pdf> (accessed December 29, 2014).

<sup>4</sup> This Medal “shall be awarded” to any DoD civilian employee meeting the definition of “employee” under 5 U.S.C. § 2105 (the Secretary of Defense has discretionary authority to award this medal to non-DoD personnel who are otherwise qualified to be awarded the medal based on their involvement in DoD activities). Eligibility criteria “are aligned as closely as possible to those for the Purple Heart for members of the Armed Forces.” Furthermore, “this medal differs from other medals in that it is not ‘recommended’. The employee is ‘entitled’ to the medal if the employee is eligible....[and] killed or [injured] due to hostile action against the United States of America, or killed or wounded while rescuing or attempting to rescue any other employee or individual subjected to injuries sustained under such conditions.” See “The Official Homepage of United States Army Civilian Personnel: Secretary of Defense Medal for the Defense of Freedom,” *available at* <http://cpol.army.mil/library/permis/5487.html> (accessed December 29, 2014).

<sup>5</sup> See generally “The Final Report of the William H. Webster Commission on the Events at Fort Hood, Texas on November 5, 2009 (July, 2012)(the “Webster Report”) *available at* <http://www.fbi.gov/news/pressrel/press-releases/judge-webster-delivers-webster-commission-report-on-fort-hood> (accessed December 22, 2014)

<sup>6</sup> “Allah Akbar” was the rallying cry for the 9/11 terrorists and for the terrorists who beheaded the American journalist Daniel Pearl, and it is used by other jihadists worldwide when attacking non-Moslems.

9. Hasan's court martial commenced in July, 2013, after nearly three and one-half years of delay. Hasan asked permission to raise the "defense of others" affirmative defense, arguing he killed to protect Mullah Omar and the Taliban, but the trial judge prohibited him from doing so.<sup>7</sup> In August, 2013, he was convicted of murder and sentenced to death.

10. At all times relevant, both before and after November 5, 2009, the government was aware that Hasan supported jihadist violence against "enemies of Islam" including Petitioners and other American Armed Forces members, Jews and Christians, and that he was inspired and motivated by Anwar Awlaki and al-Qaeda, Hamas and the Taliban.<sup>8</sup>

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<sup>7</sup> See M. Alex Johnson, *NBC News*, "Fort Hood gunman Nidal Hasan banned from arguing he was defending the Taliban" (June 14, 2013) *available at* <http://usnews.nbcnews.com/news/2013/06/14/18960053-fort-hood-gunman-nidal-hasan-banned-from-arguing-he-was-defending-the-taliban> (accessed December 15, 2014); *see also* Cheryl K. Chumley, *The Washington Times*, "Fort Hood shooter Nidal Hasan petitions to be 'citizen' of Islamic State" (August 29, 2014) *available at* <http://www.washingtontimes.com/news/2014/aug/29/fort-hood-shooter-nidal-hasan-petitions-be-citizen/> (accessed December 28, 2014) ("John Galligan, the attorney for Hasan, said the letter 'underscores how much of his life, actions and mental thought process are driven by religious zeal. And it also reinforces my belief that the military judge committed reversible error by prohibiting Major Hasan from both testifying and arguing'" how his religious beliefs motivated the attack.)

<sup>8</sup> See "A Ticking Time Bomb Counterterrorism Lessons from the U.S. Government's Failure to Prevent the Fort Hood Attack: The Special Report by Joseph I. Lieberman, Chairman, and Susan M. Collins, Ranking Member, United States Senate Committee on Homeland Security and Governmental Affairs (February, 2011)" (the "Senate Report") *available at* [www.hsgac.senate.gov/public/files/Fort\\_Hood/FortHoodReport.pdf](http://www.hsgac.senate.gov/public/files/Fort_Hood/FortHoodReport.pdf) (accessed December 22, 2014); *see also* Webster Report, *supra*, *available at* <http://www.fbi.gov/news/pressrel/press-releases/judge-webster-delivers-webster-commission-report-on-fort-hood> (accessed December 22, 2014); Federal Bureau of Investigation Transcript, Nidal Malik Hasan (July 18, 2011) at 4 *available at* <http://bloximages.newyork1.vip.townnews.com/kdhnews.com/content/tncms/assets/v3/editorial/4/e7/4e713a46-f8a6-11e2-9e39-0019bb30f31a/51f6fb3d1f7b1.pdf.pdf> (accessed December 28, 2014) attached as Exhibit 1 at 4 (Hasan talks of a "war on Islam" and says "Allah clearly and repeatedly instructs Muslims...the Christians and Jews...are only friends and protectors of one another [and] they will not fail to do their best to corrupt you...those people...are the wrongdoers..."). Al-Qaeda and Hamas are designated foreign terrorist organizations under 8 U.S.C. § 1189. *See* <http://www.state.gov/j/ct/rls/other/des/123085.htm> (accessed December 15, 2014).

11. In fact, numerous Executive Branch officials,<sup>9</sup> the intelligence community,<sup>10</sup> key Congressional leaders,<sup>11</sup> and prosecutors<sup>12</sup> have publically concluded that Hasan's committed an

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<sup>9</sup> Remarks of John O. Brennan, Assistant to the President for Homeland Security and Counterterrorism, on Ensuring al-Qa'ida's Demise -- As Prepared for Delivery (June 29, 2011) ("It is al-Qa'ida's affiliates—groups that are part of its network or share its goals—that have... attempted to attack our homeland.... And it is al-Qa'ida's adherents... who have engaged in, or facilitated, terrorist activities here in the United States.... And we have seen the tragic results... the attack on our servicemen and women at Fort Hood") (emphasis added) *available at* <http://www.whitehouse.gov/the-press-office/2011/06/29/remarks-john-o-brennan-assistant-president-homeland-security-and-counter> (accessed December 15, 2014). The government's National Counter Terrorism Center, "the primary organization in the U.S. government for integrating and analyzing all intelligence pertaining to terrorism possessed or acquired by the U.S. government (*except purely domestic terrorism*)" (emphasis added), long ago classified Fort Hood as a "high fatality terrorist attack." *See* "National Counter Terrorism Center – 2009 Report on Terrorism (April 30, 2010) *available at* [http://www.riskintel.com/wp-content/uploads/downloads/2011/10/2009\\_report\\_on\\_terrorism.pdf](http://www.riskintel.com/wp-content/uploads/downloads/2011/10/2009_report_on_terrorism.pdf) at p. 61 (accessed December 29, 2014); "National Counter Terrorism Center – Who We Are", *available at* <http://www.nctc.gov/whoweare.html> (accessed December 29, 2014); *see also* Fox News, "Obama Official Calls Fort Hood Massacre 'Act of Terrorism'" (January 15, 2010) ("A senior Obama administration official, speaking on background Friday... characterized the Fort Hood shooting as 'an act of terrorism,' the first time an administration official has used that term in describing the massacre") *available at* <http://www.foxnews.com/politics/2010/01/15/time-obama-official-calls-fort-hood-massacre-act-terrorism/> (accessed December 15, 2014).

<sup>10</sup> *See* Testimony of James Comey, FBI Director, before the Senate Judiciary Committee (May 21, 2014) ("Senator Cornyn: "Do you agree with the intelligence community's assessment that Hassan was inspired by al-Qaida to conduct that attack?" Mr. Comey: "Yes sir ...") *available at* [https://www.youtube.com/watch?v=YQ\\_1EUvBfoc](https://www.youtube.com/watch?v=YQ_1EUvBfoc) (accessed December 28, 2014); *see also* Webster Report, *supra*.

<sup>11</sup> *A Ticking Time Bomb Counterterrorism Lessons from the U.S. Government's Failure to Prevent the Fort Hood Attack: The Special Report by Joseph I. Lieberman, Chairman, and Susan M. Collins, Ranking Member, United States Senate Committee on Homeland Security and Governmental Affairs* (February, 2011) *available at* [www.hsgac.senate.gov/public/\\_files/Fort\\_Hood/FortHoodReport.pdf](http://www.hsgac.senate.gov/public/_files/Fort_Hood/FortHoodReport.pdf) (accessed July 11, 2013); Senator McCaul said. "He committed a horrific terrorist attack against this country and our military in the name of the Taliban and Al Qaeda, and he sought to continue their mission on our homeland. The administration's refusal to call this attack what it is, and instead labeling it 'workplace violence,' denies proper recognition to the victims and does not do justice to those who were killed that day and those who continue to suffer because of Hasan's rampage." Sara Carter, *The Blaze*, "Victims of Fort Hood Hit Yet Another Roadblock for Justice," (March 13, 2014) *available at* <http://www.theblaze.com/stories/2014/03/13/victims-of-fort-hood-hit-yet-another-roadblock-for-justice/> (accessed December 15, 2014); Senator John Cornyn: "Shortly after the attack, it became clear that Hasan was motivated by the same poisonous ideology that spurred the attacks on September the 11, 2001. In other words, this was an act of domestic

act of terrorism inspired or motivated by foreign terrorist organizations and not “workplace violence.”

12. On July 28, 2011, Hasan gave a jail-cell interview to the Al-Jazeera network asking forgiveness from the “mujahadeen” and thanking the “champions of Islam for awakening [him] from [his] slumber.”<sup>13</sup> Hasan later said he supported the Taliban<sup>14</sup> and recently wrote the terror group “Islamic State of Iraq and Syria” asking for recognition as a “soldier” of the “caliphate.”<sup>15</sup>

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terrorism.” *Press Release*, “One Step Closer to Justice for Fort Hood Victims” available at [http://www.cornyn.senate.gov/public/index.cfm?p=NewsReleases&ContentRecord\\_id=2239d335-3f4e-453c-be5e-1b911afb4e09](http://www.cornyn.senate.gov/public/index.cfm?p=NewsReleases&ContentRecord_id=2239d335-3f4e-453c-be5e-1b911afb4e09) (accessed December 15, 2014); “This is a huge step in the joint efforts to help victims of the Fort Hood terrorist attack...” said Congressman Roger Williams. “The victims of this terrorist attack have suffered long enough ...” said Congressman John Carter. *Press Release*, “Deal Struck On Compensating Fort Hood Shooting Victims, Dec. 4, 2014” available at <http://carter.house.gov/press-releases/deal-struck-on-compensating-fort-hood-shooting-victims/> (accessed December 15, 2014).

<sup>12</sup> See also Manny Fernandez, *The New York Times*, “At Fort Hood, Wrestling With Label of Terrorism,” (April 8, 2014) (“Prosecutors said one of his motivations was to kill as many soldiers as he could to wage jihad...the shooting was justified because the soldiers he killed were “going against the Islamic Empire”...he sent messages and emails to Anwar al-Awlaki...described by officials as the leader of external operations for Al Qaeda in the Arabian Peninsula”) available at [http://www.nytimes.com/2014/04/09/us/at-fort-hood-wrestling-with-label-of-terrorism.html?\\_r=0](http://www.nytimes.com/2014/04/09/us/at-fort-hood-wrestling-with-label-of-terrorism.html?_r=0) (accessed December 15, 2014).

<sup>13</sup> See Exhibit 1 at 4.

<sup>14</sup> Angela K. Brown, *The San Francisco Chronicle*, “Fort Hood suspect says he supports Taliban,” (July 10, 2013) available at <http://www.sfgate.com/news/texas/article/Fort-Hood-shooting-suspect-I-support-Taliban-4657456.php> (accessed July 11, 2013); Brian Ross and Ned Berkowitz, *ABC News* “Trial Starts ‘Day of Reckoning’ for Accused Fort Hood Shooter, Hero Cop Says”, (August 5, 2013) available at <http://abcnews.go.com/Blotter/trial-starts-day-reckoning-accused-fort-hood-shooter/story?id=19875524> (accessed September 13, 2013); Molly Hennessy-Fiske and Michael Muskal, *Los Angeles Times*, “Ft. Hood shooting victim and Nidal Hasan exchange stares in court”, (August 6, 2013) available at <http://articles.latimes.com/2013/aug/06/nation/la-na-nn-fort-hood-nidal-hasan-victims-20130806> (accessed September 13, 2013).

<sup>15</sup> James Rush, *The Daily Mail*, “It would be an honor to join ISIS and become a citizen of the caliphate,’ says former US Army psychiatrist who killed 13 in shooting spree at Fort Hood,” (August 29, 2014) available at

13. At all times relevant, Respondents knew that Hasan killed for Islamic jihad, that his attack was U.S. Army Field Manual-defined “terrorism” and that Hasan conducted himself as an enemy of the United States and carried out a “hostile act” against it.<sup>16</sup> In fact, as early as 2005, the government knew Hasan was a radical extremist who considered himself a devoted “Soldier of Allah” and believed that the U.S. was “at war with Islam.”<sup>17</sup> It also knew that Hasan was prohibited from serving in the Armed Forces under Army regulations, violated U.S. laws prohibiting material support for designated terrorists and terrorist organizations and was a “ticking time bomb” who posed a mortal threat to Petitioners and others.<sup>18</sup>

14. Almost immediately after Hasan’s terror attack, the President, the Chairman of the Joint Chiefs of Staff and other high-ranking political officials visited Petitioners and the other victims for “photo opportunities.” The President personally promised that they would be “well

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<http://www.dailymail.co.uk/news/article-2737475/It-honor-join-ISIS-citizen-caliphate-says-former-US-Army-psychiatrist-killed-13-shooting-spree-Fort-Hood.html#ixzz3ND3GeTTw> (accessed December 28, 2014).

<sup>16</sup>See U.S. Army Field Manual No. FM 3-0, Chapter 9, 37, *available at* [http://armypubs.army.mil/doctrine/Active\\_FM.html](http://armypubs.army.mil/doctrine/Active_FM.html) (accessed December 28, 2014); *see also* DOD Joint Publication 1-02, the “DOD Dictionary of Military and Associated Terms” *available at* [http://www.dtic.mil/doctrine/new\\_pubs/jp1\\_02.pdf](http://www.dtic.mil/doctrine/new_pubs/jp1_02.pdf) (accessed December 28, 2014).

<sup>17</sup> By June 30, 2009, the government knew that Hasan supported the jihadi murder of Americans at the Little Rock, Arkansas Army recruiting office and that he believed Muslims needed to “strap bombs on themselves and go into Times Square” to kill Americans. By August, 2009, the Army knew or should have known that Hasan was abusing his patients, who were American soldiers returning from the battlefields of Iraq and Afghanistan, by calling them “war criminals” in the course of psychiatric treatment sessions for killing the Taliban.

<sup>18</sup> By June 1, 2009, the FBI knew to a moral certainty that Hasan was an active security threat based on his intercepted emails to Anwar Awlaki in which Hasan sought religious sanction for fratricide, supported the government of Iran, justified suicide attacks against innocents and offered material support for terrorism, among other things. Hasan also made clear his deep devotion to the al-Qaeda leader, writing in rhapsodic terms of meeting Awlaki in the Moslem “after-life.” *See Webster Report, supra.*



taken care of” and that the government would “make them whole.”<sup>19</sup> The Chairman of the Joint Chiefs of Staff made similar promises. However, these promises were empty vessels.<sup>20</sup> Instead, the government denied the Fort Hood victims appropriate care, recognition and benefits.<sup>21</sup>

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<sup>19</sup> See Letter to Secretary of Defense Charles Hagel from Congressmen Rooney, Fattah and Wolf, May 6, 2013, *available at* [http://abcnews.go.com/images/Blotter/RooneyFattahWolf\\_HagelLetter\\_050613.pdf](http://abcnews.go.com/images/Blotter/RooneyFattahWolf_HagelLetter_050613.pdf) (accessed December 15, 2014). The Congressmen also said that “The Army’s preferential treatment of Major Hasan...and the FBI’s refusal to [report] his multiple communications with the notorious terrorist leader Anwar al-Awlaki, apparently because of political sensitivities in the Washington Field Office, led to the Fort Hood attack;” they expressed deep concern that “the same considerations of ‘political correctness’ that caused the horrible toll of deaths and injuries at Fort Hood have also informed the Army’s decision to deem his attack an act of ‘workplace violence’”; and they asked DOD to recognize that the Fort Hood terror attack deaths and injuries were combat-related for benefits purposes as “a necessary and appropriate first step of good faith by your Department. Such a designation would be tangible evidence that our government keeps its promises, albeit years after the fact.”

<sup>20</sup> See Ned Berkowitz, “Members of Congress Demand Obama Administration Classify Ft. Hood Attack as an ‘Act of Terrorism’” (Feb. 13, 2013) *available at* <http://abcnews.go.com/Blotter/members-congress-demand-obama-administration-classify-ft-hood/story?id=18493746> (accessed December 15, 2014).

<sup>21</sup> In a letter to Congress, the Army claimed “taking care of those affected by the Fort Hood shooting...remains one of the Army’s top priorities.” See Letter from Lt. Gen. Dana K. Chipman to the Honorable Thomas Rooney (May 16, 2013) *linked at* Ned Berkowitz, *ABC News*, “DOD: Ft. Hood Massacre Likely ‘Criminal Act of Single Individual,’ Not International Terror,” (May 24, 2013) *available at* <http://abcnews.go.com/Blotter/dod-ft-hood-massacre-criminal-act-international-terror/story?id=19244244> (accessed July 12, 2013). In truth:

- One injured soldier was able to obtain proper treatment for a traumatic brain injury only because the treatment was paid for by a private benefactor.
- Another soldier diagnosed with crippling post traumatic stress was denied treatment and a medical discharge because his injuries were sustained at Fort Hood.
- Another soldier was kept on active duty despite doctors’ recommendations that he be transferred to a Wounded Warrior unit if not discharged from the Army on disability entirely.
- Another soldier, who was shot five times and almost died due to medical neglect of his head and stomach wounds at Darnell Army Hospital, was in a Wounded Warrior unit for over two years. He cannot lift anything heavy or walk more than a short distance or even ride a bicycle but was denied a medical discharge and taunted by his commanders. He was specifically told that if he suffered similar wounds in Iraq he would have been retired and deemed disabled long ago.

### III. SOLDIER-PETITIONERS QUALIFIED FOR A PURPLE HEART.

#### A. The Deceased.

15. **Major Libardo Eduardo Caraveo**. Major Caraveo was shot and killed by Hasan. He had reenlisted in January, 2009, knowing that he was to be deployed to Afghanistan. Major Caraveo was the pride of his family and the first to graduate from college, earning a doctorate in psychology.

16. **Staff Sergeant Justin Michael DeCrow** was shot and killed by Hasan. Staff Sergeant DeCrow was helping soldiers fill out paperwork for deployment to Afghanistan. He had learned that same day that he would soon be deployed to Afghanistan as well, and was honored to serve his country.

17. **Specialist Frederick Z. Greene** was shot and killed by Hasan. He left behind a wife and two young daughters.

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- Another soldier was harassed by his command simply because of his connection to the Fort Hood terror attack, and then disciplined leading to a demotion, forfeiture of pay and extra duty.
  - Another soldier, whom the Veterans' Administration later diagnosed with post traumatic stress disorder so severe that he cannot work, drive a car, or even bathe himself, was sent to Iraq immediately after the Fort Hood attack without any treatment whatsoever. Upon returning from Iraq, he had a breakdown and requested treatment. The Army refused and instead put him on a punitive duty with 24 and 48 hour shifts. He was not allowed off base and forced to sleep in a hallway on a cot for three weeks. When he was allowed to return home, he received discharge papers and was told that he was lucky to have an honorable discharge because he was an embarrassment to his company. Since he was not medically discharged as he should have been, his family went without any income for two years, until in August, 2012, the VA classified him 100% disabled. But for assistance from his mother and grandmother, this soldier and his family would have been homeless.
  - Another soldier was given the Chief of Staff's personal business card and instructed to call if he (the soldier) needed anything. Severely injured and disabled, unable to even drive himself to his doctor appointments and on the verge of economic disaster because his wife had to quit her job to provide him with full time care, he called. There was never a call back.
  - The government has done nothing at all for Hasan's civilian victims.

18. **Specialist Jason Dean Hunt** was shot and killed by Hasan. Specialist Hunt had been in the military for three and a half years and had served proudly in Iraq. He had just been married to his wife Jennifer and was working with her to make a family for his three step-children when Hasan killed him in the name of Allah.

19. **Sergeant Amy S. Krueger** was shot and killed by Hasan. She is survived by her mother and two siblings.

20. **Captain Russell G. Seager** was shot and killed by Hasan. Captain Seager was a reservist who had just been called up to serve in Afghanistan for the first time. A nurse practitioner in private life, Captain Seager had joined the Army Reserve in 2005 at age 47 specifically to provide mental health treatment to soldiers. He left behind a wife, son, father and sister.

21. **Private Francheska Velez** was shot and killed by Hasan. Having just returned from deployment to Iraq, Private Velez was filing paperwork to continue her education. Private Velez was also pregnant with her first child. After Hasan shot her, she lived for a short time in terrible pain and agony, knowing that she and her child were dying.

22. **Lieutenant Colonel Juanita Warman** was shot and killed by Hasan. Lieutenant Colonel Warman was processing out for her final deployment to Kuwait before she retired from the military. Lieutenant Colonel Warman had spent her military career treating soldiers with mental illness, especially post traumatic stress disorder (“PTSD”). She was shot while shielding another soldier from Hasan’s gunfire.

23. **Private Kham See Xiong** was shot and killed by Hasan. Private Xiong was being processed for his first deployment to Afghanistan, and he was proud to serve. Private Xiong came from a very tight-knit Hmong family in Minnesota. His parents had immigrated to

the United States after providing assistance to the U.S. government during the Vietnam War. Three generations of his family have served the U.S. military. Private Xiong's impact on the lives of others is remembered to this day, and there are several memorials to him in his high school in Minnesota. Private Xiong was the glue of their family, and a father figure to many of his siblings. His death in the Fort Hood terror attack has filled the family with sadness and anger. He left behind a wife and three children and is deeply missed.

B. The Wounded.

24. **Specialist James Armstrong** was shot three times by Hasan. One bullet wounded him just above the knee, which has caused permanent damage and loss of mobility. Another bullet remains lodged near his kidney. Specialist Armstrong's injuries have required significant attention from his wife, causing her to quit work for nearly three months to care for him. This has only led to further financial difficulties. Specialist Armstrong has also been diagnosed with PTSD, and remains traumatized by the shooting.

25. **Specialist Logan M. Burnett** was shot multiple times by Hasan, one bullet penetrating through his left hip and into his intestines, colon, and kidney. He has had two operations to address this, but still has hip displacement and spinal misalignment along with two bullets in his stomach. He was also shot in his left elbow and left hand. He has had nine surgeries on his left hand, including one to remove two knuckles. He has neuropathy in his left knee and nerve damage in his left leg. He cannot drive, struggles to sleep, and suffers from PTSD.

26. **Captain Dorothy Carskadon** was shot multiple times by Hasan, and is now permanently disabled. Captain Carskadon rushed to assist Private Velez, who had been shot along with Baby Velez. But while providing comfort to the mortally wounded Private Velez, Captain Carskadon was gravely wounded by gunshots to the leg, head, hip, and stomach. She

underwent 15 hours of surgery, during which time her heart stopped twice. Although she has made some physical recovery, she still suffers from PTSD, sleep apnea, and constant pain from the bullet wounds. She left the military in 2011.

27. **Specialist Matthew D. Cooke** was shot and wounded by Hasan. He had performed two tours of duty in Iraq and was due to be deployed again when he was shot by the terrorist Hasan. He was giving blood on November 5, and was directly in front of Hasan when he began shooting. Specialist Cooke was hit three times. Specialist Cooke was dragged outside by Private Gadlin and taken to Darnell Hospital. However, doctors failed to diagnose him with any serious injuries, leading to a lengthy delay in receiving treatment. This delay cost Specialist Cooke massive quantities of blood and may result in blindness. Eventually, he did receive treatment, enduring multiple surgeries, excruciating pain, and a two-month hospital stay. Specialist Cooke now suffers from severe PTSD, which has been largely untreated by the Army. He and his wife have divorced, and his life has been forever changed.

28. **Private Mick Engnehl** was shot by Hasan in the neck and shoulder as he was attempting to aid Private and Baby Velez. Seriously wounded, Private Engnehl was forcibly removed from a "medivac" helicopter by agents of the FBI and left to die. Because of the heroic work of an Army nurse, another helicopter was found for Private Engnehl, he was airlifted to a hospital and survived. Private Engnehl spent the next several days in the intensive care unit of Scott and White Hospital, where he was in a room next door to Hasan. Engnehl retired from the military in 2011 on 80% disability. He still has partial paralysis in his right arm and severe PTSD.

29. **Private Joseph T. Foster** was shot and wounded by Hasan. He has suffered significant severe physical and emotional pain.

30. **Private Amber Marie Gadlin** was shot and wounded by Hasan. She pulled Specialist Cooke to safety. She has suffered significant physical and emotional pain.

31. **Staff Sergeant Chelsea Garrett** suffered severe psychological trauma on November 5, 2009. She was a medic who was preparing to attend her graduation ceremony on the morning of November 5. When news of Hasan's terrorist attack reached her, she rushed to help her fallen comrades, still wearing her graduation gown and unsure of Hasan's whereabouts. She and her colleagues performed heroically despite the danger they faced. Today Staff Sergeant Garrett suffers from PTSD, anxiety, and depression. Not a day goes by when she is not accosted by nightmarish thoughts of the massacre. She is on disability and cannot work, and experiences debilitating anxiety when in public. The Army has not offered or provided her with treatment.

32. **Sergeant Nathan Hewitt** was shot and wounded by Hasan while he was processing for his second deployment to Afghanistan. He sustained two gunshot wounds to his leg that required hospitalization and rehabilitation. He still struggles with PTSD, anxiety, and insomnia.

33. **Major Dr. Clifford Alan Hopewell** suffered severe psychological trauma on November 5, 2009. Major Hopewell, a neuropsychologist, was Officer-in-Charge of the Traumatic Brain Injury Clinic in charge of evaluating all Soldiers suspected of brain injuries processing through Ft. Hood. When Hasan began shooting, Major Hopewell and his staff were trapped in their building. Major Hopewell now suffers from chronic PTSD, for which he has undergone extensive therapy. He also struggles with insomnia, high blood pressure, fatigue, and diminished cognitive functioning. In addition, Major Hopewell's clinic was completely destroyed and impounded as a result of the terror attack. He operated from a parking lot using a

cell phone for close to a year, and was forced to retire from the military following the shooting, thus depriving the Army of the very professionals most needed to treat the victims of the Fort Hood terror attack.

34. **Private Najee M. Hull** was shot and wounded by Hasan in the chest, abdomen, and knee, and suffered a collapsed lung and ruptured spleen. After lengthy hospitalization and therapy, Private Hull remains in severe pain and still has a bullet fragment in his chest. He also suffers from PTSD, depression, anxiety, panic attacks, loss of confidence and loss of trust.

35. **Private Justin T. Johnson** was shot and wounded by Hasan in the back and foot, puncturing his lungs, fracturing his ribs, and breaking bones in his foot. A bullet remains lodged in his chest, and he continues to suffer from PTSD, anxiety, and loss of trust.

36. **Staff Sergeant Alonzo M. Lunsford, Jr.** was shot and wounded by Hasan six times and nearly died. He endured numerous surgeries, including one as recent as June 19, 2012. He is assigned to a Wounded Warrior unit at Fort Bragg, but remains injured and unable to do his job. Despite his serious injuries, he has not received the care and treatment he deserves and has been denied a promotion because of his criticism of the defendants' treatment of Hasan's victims and their refusal to acknowledge the Fort Hood terrorist attack.

37. **Staff Sergeant Shawn N. Manning** was shot six times by Hasan. Once in the left upper chest, with the bullet traveling through his sternum, right lung and liver; once in the left mid back, where the bullet traveled parallel to his spine and remains lodged today behind his left kidney; once in the lower right thigh, where the bullet traveled into his pelvic region and later migrated back down right thigh where it remains today; once in the upper right thigh, where the bullet traveled into abdomen, lacerated his colon and was removed; once in the right foot; and once in the lower right side, a graze wound. Sergeant Manning was taken to a civilian

hospital for initial treatment, but then was taken to a Texas military hospital. There, he had surgery that took out his intestines because a bullet traveled into his liver, but a surgical staple was left behind. This became infected and was removed, leaving a hole in his belly. After three months in the Texas hospital, he complained of pain in right leg. He was told that the pain was from scar tissue. Subsequently, he went to a Seattle hospital that checked and found two bullets in his leg. Also, the government classified Sergeant Manning's injuries as being caused by "workplace violence." At time of attack, Shawn was an activated reservist. While in Army Reserves his pay was less than his compensation as a federal civilian, which would have been matched had his injuries been deemed the result of terrorism. However, because his injuries have been deemed workplace violence-related, he has lost approximately \$80,000 in compensation, as well as significant retirement benefits. He has bullet fragments in several places in his body and remains in severe and constant pain three years after the attack. He suffers from PTSD, depression, and sleep apnea.

38. **Sergeant Howard E. Ray** suffered severe psychological trauma on November 5, 2009. Sergeant Ray was involved in a counseling session at the Traumatic Brain Injury clinic for injuries received as a result of combat. Sergeant Ray narrowly escaped several bullets as he helped colleagues escape from Hasan. He was awarded the Army Commendation Medal for saving the lives of six of his comrades. Sergeant Ray now suffers from PTSD, which has exacerbated the emotional wounds he had already suffered in combat. He has undergone extensive counseling, but remains emotionally scarred. After nearly 13 years in the Army, Sergeant Ray retired on 70% disability in 2010.

39. **Specialist Dayna Ferguson Roscoe** was shot and wounded by Hasan in the arm, shoulder, and thigh at close range. Her left arm was completely shattered, her left lung was



collapsed, and her ovaries and fallopian tubes were damaged. After a major surgery, she was eventually released from the hospital. Her orthopedist cleared her to return to duty, but Specialist Roscoe could barely even dress herself. She received a second opinion and was told she needed significant surgery on her arm. Today, she is still in pain, and suffers from PTSD, anxiety, depression, flashbacks, and emotional distress.

40. **Chief Warrant Officer Christopher H. Royal** was shot multiple times by Hasan on November 5, 2009. In addition to the bullet wounds Chief Warrant Officer Royal suffered, he continues to deal with PTSD and severe emotional trauma.

41. **Specialist Jonathan Sims** was shot and wounded by Hasan in the chest and back, where one bullet still remains. Just months after being discharged from the hospital, Specialist Sims then deployed to Afghanistan. Despite his wounds, he has again re-enlisted for five more years. He has been diagnosed with PTSD in addition to his chronic pain. He is proud to serve his country.

42. **Sergeant Rex A. Stalaker** suffered severe psychological trauma on November 5, 2009. As he saw his comrades gunned down in front of him, Sergeant Stalaker helped to get soldiers to safety. He received a Meritorious Service Medal for his conduct. Sergeant Stalaker was then deployed to Afghanistan almost immediately. But the Fort Hood terror attack has left lasting emotional damage. Sergeant Stalaker suffers from chronic PTSD, anxiety, panic attacks, hyper-vigilance, paranoia, violent rages, depression, sleep disorders, and various other psychological injuries, most of which the Army ignored. He is 70% disabled and unemployable.

43. **Specialist George O. Stratton, III** was shot and wounded by Hasan in the shoulder at close range, resulting in serious physical injuries. Specialist Stratton has also suffered debilitating psychological wounds, including severe PTSD. After mistreatment from his

superiors, arising from their efforts to play down the terror attack, Specialist Stratton requested a transfer from Fort Hood. His request was denied. He requested counseling for his PTSD, but was refused. In fact, he was even demoted in rank and released from the Army without disability. The Army's mistreatment has only exacerbated the effects of his PTSD.

44. **Specialist Clifton Mikeal Stone** suffered severe psychological trauma on November 5, 2009. He was awaiting an anthrax vaccination in preparation for his first deployment to Iraq when Hasan began shooting. Specialist Stone feared for his life but provided care for the wounded soldiers that surrounded him. Soaked in blood, he eventually returned to his barracks, only to be deployed two weeks later. Today, Specialist Stone suffers from severe PTSD, depression, and anxiety, which has consumed his life. Despite his evident emotional trauma, the Army did nothing to care for Specialist Stone, minimizing his psychological injuries at every turn. Specialist Stone was honorably discharged in January, 2011. In August, 2012, he was classified by the Veterans' Administration as 100% disabled.

45. **Specialist Keara Bono Torkelson** was shot multiple times by Hasan and hit in the head. She was preparing for her first deployment to Iraq and was 20 feet away from Hasan when he began his terror attack. Today she is 80% disabled, and suffers from mild traumatic brain injury, PTSD, depression, chronic headaches, back spasms, and severe emotional distress.

46. **Sergeant Miguel A. Valdivia** was shot and wounded by Hasan, suffering three gunshot wounds, including one bullet that shattered his right femur. After one unsuccessful attempt to place a rod in his leg, he had to have another surgery to correct the error. Sergeant Valdivia was discharged in February of 2011 and has been unemployed since.

47. **Staff Sergeant Mark Anthony Warren** suffered severe emotional distress on November 5, 2009. Since that day his life has become a nightmare of PTSD. He cannot be in

crowds and even the sound of a door shutting is enough to trigger painful flashbacks. Staff Sergeant Warren has temporarily retired on 100% disability.

48. **Staff Sergeant Patrick Zeigler** was preparing to deploy overseas when he was attacked by Hasan. Hasan shot Staff Sergeant Zeigler in the right side of his head, his left forearm, his left shoulder, and his left hip. Staff Sergeant Zeigler now suffers from nightmares and uncontrollable outbursts of anger and crippling PTSD. He has been in medical treatment essentially continuously since the attack in 2009. Prior to the attack, Staff Sergeant Zeigler had been a candidate for the Army Officer Candidate School. Now, he is 100% disabled because of his head injuries, his physical wounds and his PTSD, and is currently under psychiatric care at Walter Reed National Military Medical Center in Bethesda, Maryland.

#### **IV. CIVILIAN-PETITIONERS QUALIFIED FOR THE MEDAL FOR THE DEFENSE OF FREEDOM.**

49. **Julia Wilson Adee** was a civilian DoD employee who suffered severe psychological trauma on November 5, 2009. Ms. Wilson was pregnant the day of Hasan's attack. She had just parked near the SRP when Hasan began shooting. Ms. Wilson was panicked and terrified as she tried to escape the gunshots. She continues to suffer from PTSD following Hasan's attack.

50. **Lovickie D. Byrd** was a civilian federal employee who had just finished processing Lieutenant Colonel Warman when Hasan began shooting. She injured her left knee and sustained serious psychological injuries in the attack. She suffers from PTSD, depression, panic attacks, insomnia, irritability, and incontinence. Ms. Byrd's psychological trauma caused her work performance to decline and she is now disability retired.

51. **Anna E. Ellis** was a civilian federal human relations employee. She suffered a spinal injury and nerve damage as a result of Hasan's attack and had ten screws placed in her

neck. Ms. Ellis, who was run over by the stampede of soldiers trying to escape the attack, has injuries to her knees and hands that prevented her from returning to work. After two surgeries, she is facing yet another operation to improve her mobility and pain level. She also suffers from PTSD, anxiety, insomnia, irritability and depression aside from the physical pain from her injuries and surgeries.

52. **Michelle R. Harper** was a civilian nurse who was injured in her neck, back, and knees during the attack. Ms. Harper has been diagnosed with PTSD and experiences severe panic attacks as a direct result of the Fort Hood terror attack.

53. **Linda J. Londrie**, a civilian DOD employee, suffered severe psychological trauma due to the terrorist attack. She consoled Sergeant Krueger in the last minutes of her life, and believed Sergeant Krueger was dead when she left her. Ms. Londrie had no military training or experience and learned that day what it was like in a combat situation. Even as she consoled Sergeant Krueger, Ms. Londrie believed she was going to die too. Ms. Londrie has been diagnosed with PTSD, and is haunted daily by the events of November 5. She suffers from survivor's guilt, anger, isolation, insomnia, nightmares, anxiety, and panic attacks. Ms. Londrie remains in counseling, but she was changed forever, eventually suffering a stroke that left her bedridden for several months, unable to speak and 100% disabled, under the constant care of her husband and parents.

54. **Kimberly D. Munley** was the civilian Department of Defense police officer who was the first person to return fire on Hasan. She rushed to the scene of the shooting to confront Hasan and exchanged fire with Hasan from six feet away. Ms. Munley acted bravely to stop Hasan's attack but suffered gravely as a result, suffering multiple life-threatening gunshot wounds, including a major arterial wound. After a lengthy surgery and nearly a week in

intensive care, Ms. Munley's life was saved. But she remains injured and unable to perform the work she used to. After receiving a knee replacement she can walk again, but she cannot run or train and cannot take a police job because of her physical limitations. The defendants have washed their hands of Ms. Munley, who as part of the government's damage control effort was required to attend a State of the Union speech and sit next to the First Lady of the United States, notwithstanding her pain due to recent surgeries. Ms. Munley suffers from severe PTSD and anxiety.

55. **Diana J. White** suffered severe psychological trauma on November 5, 2009. Ms. White was a civilian speech pathologist working with Sergeant Ray at the time Hasan began shooting. As she fled the scene of the shooting with Sergeant Ray, she barely escaped Hasan's gunfire. Sergeant Ray helped lead her to safety, but only after she quite literally dodged a bullet. Ms. White has been diagnosed with PTSD, severe anxiety disorder, and severe depression. Her life has changed irrevocably, and she still sleeps with a gun at her side.

#### **V. DOCUMENTATION.**

56. For over five years, Respondents have covered up and played down Hasan's inspiration, intentions and motivation for the Fort Hood attack.

57. The government has obstructed Congressional and other efforts to transparently investigate the preferential treatment given Hasan because of his religion and ethnicity, and vigorously opposed all efforts to secure Petitioners fair and equal treatment to other similarly situated individuals.

58. Even so, there is sufficient information in the public record, including but not limited to the terrorist's own statements, to compel Respondents to find that the Fort Hood terror attack of November 5, 2009 was inspired or motivated by a foreign terrorist organization.

59. Furthermore, Respondents have in their possession or control all medical and other records needed to confirm Petitioners' deaths or wounds as set forth above, as well as the injuries of those Fort Hood terror attack victims who are not a part of this Petition. All of the deaths described herein were due to Hasan's attack. All of the wounds described herein required treatment, not merely examination, by a medical officer and/or are of record.

**VI. NO GROUNDS FOR DELAY.**

60. The United States District Court for the District of Columbia granted the government's May, 2013, motion to stay Petitioners' action for damages and other relief titled *Manning et al v. McHugh et al, Docket 1:12-cv-1802 (CKK)*, pending "completion" of the terrorist's court martial. The ostensible basis for the government's stay motion was that legal proceedings would cause "undue command influence" and jeopardize Hasan's court martial.

61. The terrorist was convicted and sentenced to death in August, 2013, yet the government still says that his court martial is not over. See Exhibit 2.

62. In its December 22, 2014 status report, the government described a six-step process to "completion" and then avers, sixteen months after the terrorist was convicted and sentenced to death, that only the first step in the process, production of a verbatim record of the trial, is complete.

63. The second step in the process, authentication of the trial record by the parties, apparently is incomplete.

64. The third step, authentication by the military judge, apparently has not begun.

65. The fourth step, the intended staff judge advocate's recommendations to the convening authority and service of the authenticated record of trial on the accused and defense counsel, apparently has not occurred.

66. The fifth step, a clemency petition and a response to the intended staff judge advocate's recommendation to the court-martial convening authority by the terrorist, apparently has not occurred.

67. The sixth step, when the convening authority considers the accused's submissions and takes action, wherein he approves, disapproves, or modifies in some way the findings and sentence from the trial, apparently has not occurred.

68. The government notes that the defense must respond with respect to record authentication by January 15, 2015. However, it does not estimate the amount of time needed to complete the other steps in the process.

69. In any event, the government's credibility is highly suspect. When the government first moved for a stay in May, 2013, it advised the Court that the court martial would be final and that the *Manning* case could proceed by the summer of 2014. At that point, the government's expectation was that the court martial would be contested by counsel. Instead, Hasan chose to defend *pro se* and, once denied permission to assert the "defense of others" affirmative defense, effectively made no defense at all. Nevertheless, the court martial now apparently will extend until some indefinite point in 2015 or 2016.

70. The Court, in an order dated December 23, 2014, urged Respondents to promptly commence the NDAA-mandated review to conserve judicial resources and to expedite any potential relief to Plaintiffs, and directed them to provide a progress report by February 23, 2015. *See Exhibit 3.*

71. Also, 5 U.S.C. § 555(b) requires Respondents to conclude matters presented to them "within a reasonable time."

72. Given both that the terrorist's motivation and inspiration are undisputed and that Respondents have all of Petitioners' medical records, delay cannot be justified here

**VII. RELIEF REQUESTED.**

WHEREFORE, Petitioners request the following relief:

A. That Respondents undertake and complete the NDAA-mandated review for each Petitioner and for all other Fort Hood terror attack victims, and award each a Purple Heart or a Medal for the Defense of Freedom decoration, as appropriate and as set forth above, retroactive to November 5, 2009, and within sixty days hereof.

B. That Respondents provide Petitioners and all other Fort Hood terror attack victims with all Purple Heart or Medal for the Defense of Freedom-related benefits, retroactive to November 5, 2009, within sixty days hereof.

Respectfully submitted,

/s/ Reed D. Rubinstein

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**CERTIFICATE OF SERVICE**

This is to confirm that a copy of the foregoing was electronically served on Respondents' counsel December 31, 2015, and that an informational copy was filed with the United States District Court for the District of Columbia in the case of *Manning et al v. McHugh et al*, Docket 1:12-cv-1802 (CKK).

/s/ Reed D. Rubinstein

Reed D. Rubinstein

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# EXHIBIT 1

Release Authorized  
*Nidal Malik Hasan*

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*No page 830  
Lina  
7-29*

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 07/28/2011

The following is a verbatim transcription of recorded phone calls transcribed and typed by Support Services Technician Vickie Zickel:

DATE: July 18, 2011  
FILE NUMBER: 415F-SA-61852-CRIM  
LENGTH: 00:19:59

PARTICIPANTS:

NIDAL MALIK HASAN = NH  
LAILA ARARIAN = LA  
UNINTELLIGIBLE = UI

[pause]; [00:00:00-00:00:38]

"[RC] You have ten dollars. Hello. This is a free call from [RC] Nidal [RC] an inmate at Bell County Jail. This call is subject to recording and monitoring. To accept this free call press one, to refuse this free call press two. If you would like to permanently...thank you for using Securus [PH]. You may start the conversation now. [RC]"

NH: Peace be upon you and so may be mercy of Allah.

LA: And upon you be peace.

NH: How are you doing?

LA: Uh...doing well..how are you?

NH: [UI]. Did you...talk to your superiors?

LA: Yes I did...um...you know I just wanted to say uh...you know...first of all...thank you so much for choosing us uh...to tell your story...uh...we really wanna hear your story and...and we believe that you have a story to tell...um...and we wanna hear what you have to say...uh...I did speak with them and uh...we can't sacrifice our right to editorial control...uh...but we think it's very important to hear your point of view...right now we don't see a problem with putting

Investigation on 07/18/2011 at Bell County Jail, Bell County, TX (telephonically)

File # 415F-SA-61852-CRIM Date dictated N/A

by TFO Michael S. Sharpe:vz

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your statement on our website...uh...but no credi...credible news organization will sacrifice their editorial control...uh...but...but as I said...we'll endeavor to run your statement in full...uh...but we'll have to review according to our editorial practices.

NH: Okay...well...you know...I'm willing to...to take a chance...and do that...with you guys...um...and I'll see what the outcome is...and...and then...you know...um...if I'm satisfied with...that my uh...you know...it's not taken out of context...then...you know...I'll continue to work with you guys on the interview process...um...in regards to the uh...interview...uh...in the near future...okay?

LA: Okay...uh...so we will go ahead and uh...and start...first of all...I wanted to ask you...is it okay to record it?

NH: Uh yeah...I guess it...yeah...I guess it is. Yeah..actually that's...

LA: Okay...um...

NH: ...yeah...

LA: ...if you don't mind saying uh...you know...saying your name...so it's...if you could just say...My name is Nidal Hasan and I'm calling from...you know...blank jail and...just to say "I know that my statement is being recorded."

NH: Okay.

LA: If you could just start that way before you read your statement and I will not interrupt you while you read it...um...and then at the very end if I have any questions and clarifications I will...I will ask you then...but I will not interrupt you as you read your statement.

NH: Okay...and uh...as far as the Koranic uh...like..references... should I just...I guess you'll know where those are...do I have to actually reference it or is it okay just to...I..I guess you'll know where the Koranic verses occur...uh...in...in the...you know what I mean?...

LA: Uh...

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LA: Okay.

NH: ...and then I'll have to call you back.

LA: Okay...okay.

NH: Okay...tell me when.

LA: Uh...please start.


NH: In the name of Almighty Allah...the most gracious and the most merciful...my name is Nidal Hasan...Major Nidal Hasan...and I would like to convey a message to the world...all praise and thanks are Allah's...who has sent down to his slave Mohammad...peace and blessings be upon Him...the book...the Koran...and has not placed therein...any crookedness...He has made it straight to give warning of a severe punishment from Him and to give glad tidings to the believers...who do righteous deeds...that they shall have a fair reward...they shall abide therein forever...Koran..Chapter 018...Verses 001 to 003. I would like to begin by repenting to Almighty Allah and apologize to the Muhadageen [PH]...the believers...and the innocent. I ask for their forgiveness and their prayers. I ask for their forgiveness for participating in the illegal and immoral aggression against Muslims...their religion...and their lands. It has resulted in the death..destruction...and deception of many innocent men..women..and children. As a United States Army Psychiatrist...my job was to "conserve the fighting strength" of military armed forces personnel and by deceit "to win the hearts and minds" of Muslims throughout the world. Using American Muslim soldiers such as myself to help win the hearts and minds of naive and desperate Muslims around the world is a powerful strategy...indeed...I saw and heard how we would give money to Muslim politicians and support projects like the building of schools and mosques...so we could ultimately dictate what is said..read...and done...and I am too ashamed to even mention the clandestine and covert operations that have already occurred...or are still in progress about the Muslim world. My complicity was on behalf of a government that openly acknowledges that it would hate for the law of Almighty Allah to be the supreme law of the land. The rejection of the democratically-elected Hamas in Palestine is just one example of this. This can also be seen in other parts of the world...like in Iraq...Afghanistan...and Pakistan...and in the double-standard posturing towards Iran.

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They would insist on a weak and divided Islam that can't stand up for itself. Is this a war in Islam?...you bet it is...and...as noted previously...I participated in it...it was an act of [UI]...and I knew it. I was deceived by the pomp and glitter of our temporary earthly existence...chasing after and competing for artificial achievements of the worldly life...but then...Almighty Allah intervened...he saved me...he guided me...just as Almighty Allah instructed Adam...peace and blessings be upon Him to take Satan as a clear and open enemy...Almighty Allah clearly and repeatedly instructs Muslims not to take the people of the book...the Christians and Jews...or disbelievers...as Allah...for they are only friends and protectors of one another...they will not fail to do their best to corrupt you...Koran Chapter 03 Verse 118. O you who believe..take not the Jews and the Christians as [UI]...they are but [UI] of each other...and if any amongst you takes them...then surely he is one of them...verily [UI]...those people who are the wrongdoers...Koran Chapter 05..Verse 051. And we know that Almighty Allah speaks the truth...the relationship of Israel and the United States is just one glaring example of this...yet many Muslims will be deceived and like Adam...will have no one to blame except themselves. You O Mohammad...peace and blessings upon you... will not find any people who believe in Allah and the last day making friendship with those who oppose Allah and his messenger...even though they were their fathers or their sons or their brothers or their kindred...for such he has written faith in their hearts and strengthened them with true guidance from himself...and we will admit them to gardens...under which rivers flow...to dwell therein...Allah is pleased with them and they with Him. They are the party of Allah...verily it is the party of Allah that will be the successful...Chapter 058 Verse 022 in the Koran...I would like to thank those champions of Islam for awakening me from my slumber. For educating and inspiring me for trying to establish the law of Almighty Allah as supreme for future generations, and for serving as role models on how Muslims should stand up against tyranny and aggression. These champions of Islam or the Mujahadeen. They are spread out across the globe in Afghanistan, Iraq, Pakistan, and other parts of the world. I ask Almighty Allah to unite the believers as one solid fighting structure and not allow the enemies of His plan to divide us...Koran Chapter 061, Verse 004. I also ask Almighty Allah to forgive the Mujahadeen for any mistakes they have made...for any mistakes they may have made and to dissolve the sectarian strife.

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amongst us. O Almighty Allah...unite the believers...rid any strife that exists amongst us...and unite we with the Mujahadeen [UI]. Signed, Major Nidal Hasan, slave of Allah, slave of Almighty Allah, MD/MPH. Thank you.

LA: Okay...we got that.

NH: Any questions?

LA: Is there anything else...is there anything else you'd like to add?

NH: No..there's a...just need clarification on this part...I mean...is it something...I understand the integrity...it's...as you had said..that you can't just...you know...promise to completely print something you haven't heard...but now that you've heard it...do you think that's gonna be a problem?

LA: The thing is uh...this is not a decision I alone can make...I have to review it with my supervisors and uh...you know...I..I'm sure they'll...they'll review the editorial policies and come to a decision that's uh...fair and reasonable. I wanted to ask you did you uh...did you uh...write this yourself...or did you have someone write it?

NH: No..I wrote...

LA: [UI].

NH: ...no ma'am...no...I wrote it myself.

LA: Okay...um...is there uh..anything you'd like to add about the timing of this statement...why you decided to..to break your silence now?

NH: Well I've been pondering this for quite a while, actually I was gonna make a statement during the Article 32 hearing, but as you can imagine...my lawyers were dead set...dead set against that...and in the end...I thought it was long enough that I think the people wanna know and so those who wanna...who wanna know...now they know.

LA: Is there anything uh you would...you would address to uh...maybe the relatives of...of the people who uh...were killed in Fort Hood...is there anything that you would...is

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this statement directed to them...or is there anything that you would wanna say to them?

NH: The statement is directed to the world...to anybody that wants to listen...in regards to the initial question...I'll wait for the interview parts to answer you...that and other questions that you've had...that I...I do have and I'm working on...actually I've finished approximately half of those questions...but some of those...some of those questions go directly to uh...the trial...and...you know...they're...uh...they're too detailed..uh...for me to...to..to tell you right now.

LA: Okay...uh...I guess one last question then...do you expect that you will be executed?

NH: Well...I think that's...it's...it's a yes and no...yes in the sense that I am on trial...uh...the referral has been...it has been referred as capitol...so that means I'll be facing the death penalty...and uh...saying that...the evidence...you know I...I better not answer that...let me keep that...let me just keep this very [UI] for now...Laila...if that's okay with you.

LA: I understand...okay...thank you for...for giving us this statement.

NH: Okay...and..uh...when...when will this be...published?

LA: My anticipation would be uh...sometime tomorrow evening is when it would break...uh...so I...do I understand that no other network would uh...or no other news organization will have access to the statement...you are giving us exclusivity?

NH: Well...it depends...if you're printing it all...uh...you know...because I want the whole statement to come out so...I give exclusivity...but I will say you are the only one that I have made this statement to so...uh...just depending on how it comes out...if all of it is there...there's no reason for me to give it to any other uh..person...but if it doesn't all come out...then I may seek other avenues.

LA: Okay. Thank you again uh...and anything else you'd like to add or...

NH: No...



# **EXHIBIT 2**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

SHAWN MANNING, et al.	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 12-1802 (CKK)
	)	
	)	
JOHN McHUGH, Secretary of the Army,	)	
et al.	)	
	)	
Defendants.	)	
	)	

**STATUS REPORT**

In accordance with the Court’s minute order of August 28, 2014, the named Federal Defendants (“Defendants”) hereby file this status report with the Court to provide an up-to-date summary of the expected timeline for the completion of the post-trial processing of Major Hasan’s court-martial. Previously, Defendants estimated that the post-trial processing of Major Hasan’s court martial would be complete after January 1, 2015. Presently, Defendants now estimate that post-trial processing will be complete after March 1, 2015.

As previously discussed in Defendant’s Response to Court Order for Supplemental Briefing, ECF No. 47, the relevant steps of court-martial post-trial processing, as mandated by Executive Order and found in the Rules for Courts-Martial (“RCM”) are:

- (1) At the completion of a court-martial, a verbatim record of trial is produced, which also includes the exhibits submitted by the parties and other materials. *See* RCM 1103(a), (b).
- (2) The record of trial is presented to both parties to review for accuracy. *See* RCM 1103(i)(1).

(3) The military judge authenticates the record of trial. *See* RCM 1104(a)(2)(A).

(4) The intended staff judge advocate's recommendations to the convening authority and authenticated record of trial is served on accused and defense counsel. *See* RCM 1106(f) and 1104(b).

(5) The accused submits a clemency petition and a response to the intended staff judge advocate's recommendation to the court-martial convening authority. *See* RCM 1105(a), (b) and 1106(f)(4).

(6) The convening authority considers the accused's submissions and takes action, wherein he approves, disapproves, or modifies in some way the findings and sentence from the trial. *See* RCM 1107.

As the Defendants previously noted, the Military Judge directed changes to the record of trial. These changes have resulted in a Record of Trial of approximately 245,000 pages. Because the Record of Trial exceeds 245,000 pages of trial transcripts and exhibits, the Military Judge, in her discretion, afforded Defense Counsel additional time to review the record prior to authentication. The Record of Trial was presented to the defense to review for accuracy, and the Military Judge has ordered that the defense must complete its review by January 15, 2015. Following defense review, the Military Judge will authenticate the record, and it will be served on Major Hasan. This additional time has increased the post-trial processing time that the Government anticipated.

As previously noted, following being served with the authenticated record, Major Hasan will have time to submit his clemency petition and raise additional matters to the convening authority pursuant to RCM 1105. This review of his Court-Martial presents Major Hassan with his "best hope for sentence relief." *United States v. Stephenson*, 33 M.J. 79, 83 (C.M.A. 1991).

The prosecutor now anticipates the convening authority will take action after March 1, 2015, and the case will be referred to the Army Court of Criminal Appeals.

Additionally, subsequent to Defendants' previous status report, the House of Representatives and the Senate passed the National Defense Authorization Act ("NDAA") for Fiscal Year 2015. The President signed the NDAA into law, on December 19, 2014. Section 571 of the Act, amends Title 10 of the United States Code to add a new section. The new provision, 10 U.S.C. §1129a, adds a new basis for award of the Purple Heart to certain members killed or wounded by foreign terrorist organizations. H.R. 3979, 113th Cong. (2014). The version of § 1129a included in the NDAA states that an attack "shall be considered to be an attack by a foreign terrorist organization" if the attack was committed by an individual who was "in communication with the foreign terrorist organization before the attack," or if the "attack was inspired or motivated by the foreign terrorist organization." H.R. 3979 § 571 [to be stated at 10 U.S.C. § 1129a (a)(2)(A), (B).] This provision is retroactive to September 11, 2001. H.R. 3979 § 571 (a)(2)(A). Section 571 provides that Service Secretaries "shall undertake a review of each death or wounding of a member of the Armed Force . . . that could qualify as being the result of an attack" described in the proposed section. The NDAA further notes that if the Secretary determines that a service member would qualify for a Purple Heart under the new criteria established by the provision, that the Secretary will then take appropriate action to award the Purple Heart to the member. H.R. 3979 § 571 (a)(2)(B).

Defendants will continue to update the Court as to any changes to this timeline.

Respectfully Submitted,

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D.C. BAR #447889  
United States Attorney  
For the District of Columbia

DANIEL F. VAN HORN  
D.C. Bar # 924092  
Chief, Civil Division

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# **EXHIBIT 3**

**Rubinstein, Reed**

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**From:** DCD\_ECFNotice@dcd.uscourts.gov  
**Sent:** Tuesday, December 23, 2014 11:54 AM  
**To:** DCD\_ECFNotice@dcd.uscourts.gov  
**Subject:** Activity in Case 1:12-cv-01802-CKK MANNING et al v. McHUGH et al Order

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U.S. District Court

District of Columbia

**Notice of Electronic Filing**

The following transaction was entered on 12/23/2014 at 11:53 AM EDT and filed on 12/23/2014

**Case Name:** MANNING et al v. McHUGH et al

**Case Number:** 1:12-cv-01802-CKK

**Filer:**

**Document Number:** No document attached

**Docket Text:**

**MINUTE ORDER (paperless).** The Court is in receipt of the named Federal Defendants' [55] Status Report indicating that the court-martial review process is likely to be complete after March 1, 2015. The named Federal Defendants shall file a STATUS REPORT by no later than FEBRUARY 23, 2015, advising the Court as to the progress of the court-martial review process. In the event that the court-martial review process is completed prior to FEBRUARY 23, 2015, the Federal Defendants shall file a STATUS REPORT within two (2) days of the conclusion of the convening authority's review advising the Court of the completion of Defendant Hasan's court-martial.

The named Federal Defendants report that the National Defense Authorization Act for Fiscal Year 2015 ("NDAA"), signed into law on December 19, 2014, amends the statutory framework for awarding the Purple Heart to add an additional basis for service members killed or wounded by foreign terrorist organizations. The Court urges, but does not order, the Federal Defendants to promptly initiate the review process specified by statute in order to determine whether or not Plaintiffs in this action qualify for the Purple Heart based on the amended provision. Resolving this issue without additional briefing would be in the interest of judicial efficiency and would expedite any potential relief to Plaintiffs, should the Federal Defendants determine it to be warranted. The Federal Defendants SHALL report on the status of any such review pursuant to the NDAA in its FEBRUARY 23, 2015, status report. Signed by Judge Colleen Kollar-Kotelly on 12/23/2014. (lcckk2)

**1:12-cv-01802-CKK Notice has been electronically mailed to:**

Reed D. Rubinstein [reed.rubinstein@dinsmore.com](mailto:reed.rubinstein@dinsmore.com), [catherine.chae@causeofaction.org](mailto:catherine.chae@causeofaction.org), [nealsher@gmail.com](mailto:nealsher@gmail.com)

Wayne Holden Williams [wayne.williams@usdoj.gov](mailto:wayne.williams@usdoj.gov)

**1:12-cv-01802-CKK Notice will be delivered by other means to::**

LEON B. PANETTA