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ATTORNEYS AT LAW
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PHONES: JE 2-2437
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CABLE ADDRESS: "BELMON"

June 13, 1957

Commanding General
Third United States Army
Fort McPherson, Georgia

Attention: Major General Crump Garvin, President of the General Court-Martial, and Colonel C. F. Cordes, Acting Army Staff Judge Advocate

Dear Sir:

Re: Continuance of trial of Colonel John C. Nickerson, Jr., charged with violating Articles 92 and 134, Uniform Code of Military Justice, Redstone Arsenal, Alabama

After a lengthy conference this morning, both in person and via long distance telephone, and because of the most difficult position that the defense in the above captioned matter is placed because of failure to comply with requests heretofore made for material that is vital and pertinent to the defense of the accused, we respectfully request a continuance of the trial of this case now scheduled to begin on 25 June 1957; and as grounds for our request we submit the following:

1. Reference is made to the letter of 29 May 1957 written by Lt. Col. Charles R. Zimmer, JAGC, Military Defense Counsel, to the Commanding General, Third United States Army, requesting certain classified material and documents which we regard as vital, pertinent, material and essential in the defense of the accused. An answer was received to this letter, stating that the request was regarded with disfavor, with one exception. This reply further stated that if we requested specific documents, data and material by name, such further requests would be considered. This clearly denies us the right of discovery in that we have no way of knowing the specific names or designation of this material and data without having our initial request reconsidered.
2. On 4 June 1957 the civilian counsel drafted a letter to the Deputy Chief of Staff for Intelligence, Pentagon Building, Washington, D. C., requesting by name numerous documents, material and data in a special category of military intelligence, all of which material we regard as very essential.

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vital, necessary and pertinent in the defense of this case. This letter, because of its nature, was carried by courier to the addressee; and we not only have received no reply to this request, but to date we have not received an acknowledgment of its receipt. In connection with this request, we would like to respectfully point out that the contents of this request were verbally conveyed to Mr. Houston, General Counsel of the Central Intelligence Agency, and Colonel Pratt of the Office of the Assistant Chief of Staff for Intelligence by both civilian defense counsel in the presence of Colonel Zimmer, military defense counsel, on 16 May 1957.

3. On the date of this oral request, namely, 16 May 1957, we were assured by both Mr. Houston and Colonel Pratt that our request would require consideration on the part of the proper authorities in Washington and that they would initiate such consideration upon their return to Washington upon the following day.
4. Because of the nature of the charges against the accused, we feel that we have a legal right to possession of this requested material and that we are entitled to a reasonable time to thoroughly examine same. In addition to its examination and evaluation, it is imperative that we have sufficient time to correlate it with other pertinent material.
5. As recently as noon today, Central Standard Time, we inquired of Captain Phillips, Army Ballistic Missile Agency, as to whether our requests directed to the Assistant Chief of Staff for Intelligence, had been acknowledged or granted; and we received a negative answer.
6. In view of the seriousness of the charges against the accused, and because of the time that will be required to examine the material involved, provided our requests are granted, we respectfully request that a date for trial not be considered until at least six weeks after we are given access to the requested material and data.
7. We invite your attention to our letter of 29 April 1957 addressed to Commanding General, Third United States Army, in which we made our only request for continuance to date and suggested or requested consideration of a date not earlier than the last week in July or August of this year. If the Department of the Army will expeditiously act upon our request for the material involved, we in this request are not in reality asking for any further delay than that suggested in our said letter of 29 April 1957.
8. We further respectfully request that if a continuance is considered and granted that before another day of trial is definitely set, that the civilian

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defense counsel be advised or consulted, in view of the heavy schedules and dockets in which they are involved.

Respectfully submitted,

RAY H JENKINS and
ROBERT K. BELL
Civilian Defense Counsel

By _____

CHARLES R. ZIMMER, Lt. Col.,
JAGC
Defense Counsel

LEWIS G. COLE, 1st Lt., JAGC
Assistant Defense Counsel

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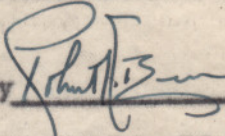
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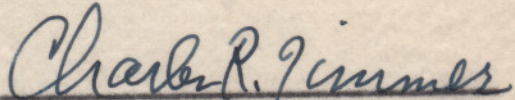
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