

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:

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

We respectfully request a continuance of the trial in the above captioned matter, which said trial is now set for 15 May 1957, at Redstone Arsenal, and as grounds for our request, we submit the following:

1. On 28 March 1957, we, the defense counsel for Colonel Nickerson, requested in writing that we be cleared to receive "Top Secret" information which we anticipate will be materially relevant to the issues, and will be needed and presented in the trial of this case. Our request went forward four weeks ago last Thursday, and to date we have not received any reply to this request other than one of the military counsel being told that the matter was being considered. If such request were granted today, there is insufficient time to examine and properly appraise the voluminous material and data involved, between now and 15 May 1957.
2. On 18 March 1957, the Military Defense Counsel requested in writing that his instructions insofar as making available to the civilian defense counsel documents of a classified ~~in~~ nature be amended or revised, and to date no answer has been received on this request. Under his current instructions that certain parts of the pre-trial investigations be shown the civilian counsel only in the presence of military counsel and that civilian counsel not be permitted to retain these investigations overnight for examination and study have placed the civilian counsel under a most difficult handicap, as we cannot believe that the trial counsel's access to these documents are under these limitations. We have had insufficient time, under these handicaps and limitations to examine and properly evaluate these large volumes of expected testimony. We would like to renew our request here that the same access to the pre-trial investigations be given the civilian defense counsel as has been afforded since early January 1957 to the trial counsel.
3. The pre-trial investigations were not made available to the defense until on or about 15 March 1957, although the investigation was begun on New Years Day 1957, and concluded within a matter of a few days. Mr. Jenkins, one of the civilian defense counsel only entered the case on the evening of 20 March 1957, and due to a very busy schedule in his law practice has only been able to come to Huntsville for a two and one-half day visit. Not being able

to take considerable material germane to the issues back to Knoxville with him to study and appraise, due to instructions given the military counsel as to the limitations of availability of this material, he has not had sufficient time to properly examine this material. The same is true to a somewhat lesser degree in the case of Mr. Bell, the other civilian counsel.

4. On 17, 18 and 19 April 1957 the civilian defense counsel conferred in Washington with Army officials, both civil and military, regarding vital issues involved in this case, at which time we invited certain considerations and made certain requests, to which we have not received an answer other than to be officially advised that we would be informed when a determination was made. Unless such notification is received ~~in~~ forthwith, it will place us within a matter of hours of the trial and thereby give us insufficient time to alter our strategy, should such alteration be necessary, in the defense of this case.
5. ~~We contemplate the use of one General Officer, now recovering from surgery, as a witness, and we are reliably informed that this witness will likely still be confined on 15 May 1957.~~
6. This is the first request for a continuance on the part of the defense.

Permit us to further respectfully request that upon consideration of this matter, we would like to call to your attention that it is our considered opinion that we would need nine to ten weeks after receiving an answer to our various other requests herein above set forth, to allow us sufficient time to analyze, evaluate and appraise the materials and issues involved, we therefore ask that you seriously consider a date ~~in August of this year~~ not earlier than August of this year, because of the seriousness of the charges in this case.

Respectfully submitted,

Charles R. Zimmer  
Lt. Colonel JAGC  
Defense Counsel

Lewis G. Cole  
1st Lieutenant JAGC  
Assistant Defense Counsel

Ray H. Jenkins  
Civilian Counsel

Robert K. Bell  
Civilian Counsel

By \_\_\_\_\_

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:

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

We respectfully request a continuance of the trial in the above captioned matter, which said trial is now set for 15 May 1957, at Redstone Arsenal, and as grounds for our request, we submit the following:

1. On 28 March 1957, we, the defense counsel for Colonel Nickerson, requested in writing that we be cleared to receive "Top Secret" information which we anticipate will be materially relevant to the issues, and will be needed and presented in the trial of this case. Our request went forward four weeks ago last Thursday, and to date we have not received any reply to this request other than one of the military counsel being told that the matter was being considered. If such request were granted today, there is insufficient time to examine and properly appraise the voluminous material and data involved, between now and 15 May 1957.
2. On March 1957, the Military Defense Counsel requested in writing that his instructions insofar as making available to the civilian defense counsel documents of a classified nature be amended or revised, and to date no answer has been received on this request. Under his current instructions that certain parts of the pre-trial investigations be shown the civilian counsel only in the presence of military counsel and that civilian counsel not be permitted to retain these investigations overnight for examination and study have placed the civilian counsel under a most difficult handicap, as we cannot believe that the trial counsel's access to these documents are under these limitations. We have had insufficient time, under these handicaps and limitations to examine and properly evaluate these large volumes of expected testimony. We would like to renew our request here that the same access to the pre-trial investigations be given the civilian defense counsel as has been afforded since early January 1957 to the trial counsel.
3. The pre-trial investigations were not made available to the defense until on or about March 1957, although the investigation was begun on New Years Day 1957, and concluded within a matter of a few days. Mr. Jenkins, one of the civilian defense counsel only entered the case on the evening of 20 March 1957, and due to a very busy schedule in his law practice has only been able to come to Huntsville for a two and one-half day visit. Not being able

to the considerable material germane to the issues back to Knoxville with him to study and appraise, due to instructions given the military counsel as to the limitations of availability of this material, he has not had sufficient time to properly examine this material. The same is true to a somewhat lesser degree in the case of Mr. Bell, the other civilian counsel.

4. On 17, 18 and 19 April 1957 the civilian defense counsel conferred in Washington with Army officials, both civil and military, regarding vital issues involved in this case, at which time we invited certain considerations and made certain requests, to which we have not received an answer other than to be officially advised that we would be informed when a determination was made. Unless such notification is received ~~xxx~~ forthwith, it will place us within a matter of hours of the trial and thereby give us insufficient time to alter our strategy, should such alteration be necessary, in the defense of this case.
5. We contemplate the use of one General Officer, now recovering from surgery, as a witness, and we are reliably informed that this witness will likely still be confined on 15 May 1957.
6. This is the first request for a continuance on the part of the defense.

Permit us to further respectfully request that upon consideration of this matter, we would like to call to your attention that it is our considered opinion that we would need nine to ten weeks after receiving an answer to our various other requests herein above set forth, to allow us sufficient time to analyze, evaluate and appraise the materials and issues involved, we therefore ask that you seriously consider a date ~~in August of this year~~ not earlier than August of this year, because of the seriousness of the charges in this case.

Respectfully submitted,

Charles R. Zimmer  
Lt. Colonel JAGC  
Defense Counsel

Lewis G. Cole  
1st Lieutenant JAGC  
Assistant Defense Counsel

Ray H. Jenkins  
Civilian Counsel

Robert K. Bell  
Civilian Counsel

By \_\_\_\_\_